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STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

1999 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 1999

BEGINNING ON

MONDAY, THE TWENTY-SEVENTH DAY OF JANUARY, A.D. 1999

AND AT ITS

EXTRA SESSION 1999

BEGINNING ON

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER, A.D. 1999

HELD IN THE CITY OF RALEIGH

ISSUED BY
SECRETARY OF STATE ELAINE F. MARSHALL

PUBLISHED BY AUTHORITY

This publication is printed on permanent, acid-free paper in compliance with the General Statutes of North Carolina.

1500 copies of this two-volume, public document were printed at a cost of $29.14.

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 1999 GENERAL ASSEMBLY

DENNIS A. WICKER	President of the Senate	Lee
JAMES B. BLACK	Speaker of the House of Representatives	Mecklenburg

---

EXECUTIVE BRANCH

(Offices established by the Constitution, filled by election and comprising the Council of State)

JAMES B. HUNT, JR.	Governor	Wilson
DENNIS A. WICKER	Lieutenant Governor	Lee
ELAINE F. MARSHALL	Secretary of State	Harnett
RALPH CAMPBELL, JR.	Auditor	Wake
HARLAN E. BOYLES	Treasurer	Wake
MICHAEL E. WARD	Superintendent of Public Instruction	Wake
MICHAEL F. EASLEY	Attorney General	Brunswick
JAMES A. GRAHAM	Commissioner of Agriculture	Rowan
HARRY E. PAYNE, JR.	Commissioner of Labor	New Hanover
JAMES E. LONG	Commissioner of Insurance	Alamance

The political affiliation of each legislator and member of the Council of State listed on this and the following pages is Democratic unless designated Republican by the abbreviation (R).

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the SessionLaws of North Carolina. Executive Orders from Governor Hunt are carried in the appendix to this volume.

1999 GENERAL ASSEMBLY

SENATE OFFICERS

Name	*Position*	*Address*
DENNIS A. WICKER	President	Sanford, Lee County
MARC BASNIGHT	President Pro Tempore	Manteo, Dare County
FRANK W. BALLANCE, JR.	Deputy President Pro Tempore	Warrenton, Warren County
JANET B. PRUITT	Principal Clerk	Raleigh, Wake County
LEROY CLARK, JR.	Reading Clerk	Wendell, Wake County
CECIL GOINS	Sergeant-at-Arms	Raleigh, Wake County

SENATORS

District	Name	County	Address
1	MARC BASNIGHT	Dare	Manteo
2	FRANK W. BALLANCE, JR.	Warren	Warrenton
3	BEVERLY EAVES PERDUE	Craven	New Bern
4	PATRICK J. BALLANTINE (R)	New Hanover	Wilmington
5	CHARLES W. ALBERTSON	Duplin	Beulaville
6	R. L. MARTIN	Pitt	Bethel
7	LUTHER HENRY JORDAN, JR.	New Hanover	Wilmington
8	JOHN H. KERR III	Wayne	Goldsboro
9	Ed N. WARREN	Pitt	Greenville
10	ROY A. COOPER III	Nash	Rocky Mount
11	ALLEN H. WELLONS	Johnston	Smithfield
12	DON W. EAST (R)	Surry	Pilot Mountain
12	VIRGINIA FOXX (R)	Watauga	Banner Elk
13	WIB GULLEY	Durham	Durham
13	JEANNE HOPKINS LUCAS	Durham	Durham
14	BRAD MILLER	Wake	Raleigh
14	ERIC MILLER REEVES	Wake	Raleigh
15	OSCAR N. HARRIS	Harnett	Dunn
16	ELEANOR KINNAIRD	Orange	Carrboro
16	HOWARD N. LEE	Orange	Chapel Hill
17	WILLIAM R. PURCELL	Scotland	Laurinburg
17	AARON W. PLYLER	Union	Monroe
18	R.C. SOLES, JR.	Columbus	Tabor City
19	ROBERT G. SHAW (R)	Guilford	Greensboro
20	HAMILTON C. HORTON (R)	Forsyth	Winston-Salem
20	LINDA GARROU	Forsyth	Winston-Salem
21	HUGH WEBSTER (R)	Caswell	Yanceyville
22	FLETCHER L. HARTSELL, JR. (R)	Cabarrus	Concord
23	JIM W. PHILLIPS, SR.	Davidson	Lexington
24	ANTHONY E. RAND	Cumberland	Fayetteville
25	DAVID W. HOYLE	Gaston	Dallas
26	AUSTIN M. ALLRAN (R)	Catawba	Hickory
27	JOHN A. GARWOOD (R)	Wilkes	North Wilkesboro
27	KENNETH R. MOORE (R)	Caldwell	Lenoir
28	STEVE METCALF	Buncombe	Asheville
28	CHARLES CARTER	Buncombe	Asheville
29	DAN ROBINSON	Jackson	Cullowhee
30	DAVID F. WEINSTEIN	Robeson	Lumberton
31	WILLIAM N. MARTIN	Guilford	Greensboro
32	KAY R. HAGAN	Guilford	Greensboro
33	CHARLIE SMITH DANNELLY	Mecklenburg	Charlotte
34	T. LAFONTINE ODOM, SR.	Mecklenburg	Charlotte
35	ROBERT A. RUCHO (R)	Mecklenburg	Matthews
36	JOHN H. CARRINGTON (R)	Wake	Raleigh
37	WALTER DALTON	Rutherford	Rutherfordton
38	BETSY L. COCHRANE (R)	Davie	Advance
39	JAMES FORRESTER (R)	Gaston	Stanley
40	DANIEL G. CLODFELTER	Mecklenburg	Charlotte
41	LARRY SHAW	Cumberland	Fayetteville
42	ROBERT C. CARPENTER (R)	Macon	Franklin

HOUSE OFFICERS

Name	*Position*	*Address*
JAMES B. BLACK	Speaker	Charlotte, Mecklenburg County
JOE HACKNEY	Speaker Pro Tempore	Chapel Hill, Orange County
DENISE G. WEEKS	Principal Clerk	Willow Springs, Wake County
ROBERT R. SAMUELS	Sergeant-at-Arms	Charlotte, Mecklenburg County

REPRESENTATIVES

District	Name	County	Address
1	WILLIAM C. OWENS, JR.	Pasquotank	Elizabeth City
2	ZENO EDWARDS, JR.	Beaufort	Washington
3	SCOTT E. THOMAS	Craven	New Bern
4	JEAN R. PRESTON (R)	Carteret	Emerald Isle
4	RONALD L. SMITH	Carteret	New Port
5	HOWARD J. HUNTER, JR.	Northampton	Murfreesboro
6	R. EUGENE ROGERS	Martin	Williamston
7	THOMAS C. HARDAWAY	Halifax	Enfield
8	EDITH D. WARREN	Pitt	Farmville
9	MARIAN N.MCLAWHORN	Pitt	Grifton
10	RUSSELL E. TUCKER	Duplin	Pink Hill
11	PHILIP A. BADDOUR, JR	Wayne	Goldsboro
12	NURHAM O. WARWICK	Sampson	Clinton
13	DANIEL F. MCCOMAS (R)	New Hanover	Wrightsville Beach
14	DEWEY L. HILL	Columbus	Whiteville
14	E. DAVID REDWINE	Brunswick	Ocean Isle Beach
15	J. SAMUEL ELLIS (R)	Wake	Raleigh
16	DOUGLAS Y. YONGUE	Scotland	Laurinburg
17	THEODORE J. KINNEY	Cumberland	Fayetteville
17	MARY E. MCALLISTER	Cumberland	Fayetteville
18	JOHN W. HURLEY	Cumberland	Fayetteville
18	MIA MORRIS (R)	Cumberland	Fayetteville
19	A. LESLIE COX, JR.	Lee	Sanford
19	DONALD S. DAVIS (R)	Harnett	Erwin
20	BILLY J. CREECH (R)	Johnston	Clayton
21	DANIEL T. BLUE, JR.	Wake	Raleigh
22	GORDON P. ALLEN	Person	Roxboro
22	JAMES W. CRAWFORD	Granville	Oxford
23	PAUL LUEBKE	Durham	Durham
23	HENRY M. MICHAUX, JR.	Durham	Durham
23	GEORGE W. MILLER, JR.	Durham	Durham
24	JOE HACKNEY	Orange	Chapel Hill
24	VERLA C. INSKO	Orange	Chapel Hill
25	CARY D. ALLRED (R)	Alamance	Burlington
25	E. NELSON COLE	Rockingham	Reidsville
25	W.B. TEAGUE, JR. (R)	Alamance	Liberty
26	ALMA S. ADAMS	Guilford	Greensboro
27	STEPHEN W. WOOD (R)	Guilford	High Point
28	FLOSSIE BOYD-MCINTYRE	Guilford	Jamestown
29	JOANNE W. BOWIE (R)	Guilford	Greensboro
30	ARLIE F. CULP (R)	Randolph	Ramseur
31	RICHARD T. MORGAN (R)	Moore	Earle Springs
32	G. WAYNE GOODWIN	Richmond	Rockingham
33	PRYOR A. GIBSON, III	Montgomery	Troy
34	O. MAX MELTON	Union	Monroe
35	CHARLOTTE A. GARDNER (R)	Rowan	Salisbury
36	JAMES B. BLACK	Mecklenburg	Matthews
37	PAUL R. MCCRARY	Davidson	Lexington
38	HAROLD J. BRUBAKER (R)	Randolph	Asheboro
39	LYONS GRAY (R)	Forsyth	Winston-Salem
40	REX L. BAKER (R)	Stokes	King
40	WILLIAM S. HIATT (R)	Surry	Mt. Airy

40	W. Eugene Wilson (R)	Watauga	Boone
41	John W. Brown (R)	Wilkes	Elkin
41	George M. Holmes (R)	Yadkin	Hamptonville
42	W. Franklin Mitchell (R)	Iredell	Olin
43	Mitchell S. Setzer (R)	Catawba	Catawba
44	Daniel W. Barefoot	Lincoln	Lincolnton
45	Cherie Killian Berry (R)	Catawba	Newton
45	Joe L. Kiser (R)	Lincoln	Vale
46	Charles F. Buchanan (R)	Mitchell	Green Mountain
46	Gregory J. Thompson (R)	Mitchell	Spruce Pine
47	Walter G. Church, Sr.	Burke	Valdese
48	Debbie A. Clary (R)	Cleveland	Cherryville
48	Andrew Dedmon	Cleveland	Earl
48	W. James Horn	Cleveland	Shelby
49	Mitch Gillespie (R)	McDowell	Marion
50	Larry T. Justus (R)	Henderson	Hendersonville
51	Lanier M. Cansler (R)	Buncombe	Asheville
51	Martin L. Nesbitt	Buncombe	Asheville
51	Wilma M. Sherrill (R)	Buncombe	Asheville
52	R. Phillip Haire	Jackson	Sylva
52	Liston B. Ramsey	Madison	Marshall
53	James C. Carpenter (R)	Macon	Otto
54	Drew P. Saunders	Mecklenburg	Huntersville
55	W. Edwin McMahan (R)	Mecklenburg	Charlotte
56	Martha B. Alexander	Mecklenburg	Charlotte
57	Constance K. Wilson (R)	Mecklenburg	Charlotte
58	Ruth M. Easterling	Mecklenburg	Charlotte
59	W. Pete Cunningham	Mecklenburg	Charlotte
60	Beverly M. Earle	Mecklenburg	Charlotte
61	Charles B. Neely, Jr. (R)	Wake	Raleigh
62	David M. Miner (R)	Wake	Cary
63	Jane H. Mosley	Wake	Cary
64	Robert J. Hensley, Jr.	Wake	Raleigh
65	Rick Eddins (R)	Wake	Raleigh
66	Larry W. Womble	Forsyth	Winston-Salem
67	Warren C. Oldham	Forsyth	Winston-Salem
68	Trudi Walend (R)	Transylvania	Brevard
69	Jim Gulley (R)	Mecklenburg	Matthews
70	Milton F. Fitch, Jr.	Wilson	Wilson
71	Joe P. Tolson	Edgecombe	Pinetops
72	Gene G. Arnold (R)	Nash	Rocky Mount
73	P. Wayne Sexton, Sr. (R)	Rockingham	Stoneville
74	Julia Craven Howard (R)	Davie	Mocksville
75	Alex Warner	Cumberland	Hope Mills
76	John D. Bridgeman	Gaston	Gastonia
77	Carolyn B. Russell (R)	Wayne	Goldsboro
78	Stanley H. Fox	Granville	Oxford
79	William L. Wainwright	Craven	Havelock
80	W. Robert Grady (R)	Onslow	Jacksonville
81	Timothy N. Tallent (R)	Cabarrus	Kannapolis
82	Bobby H. Barbee , Sr. (R)	Stanly	Locust
83	W. Eugene McCombs (R)	Rowan	Faith
84	Michael P. Decker (R)	Forsyth	Walkertown
85	Ronnie N. Sutton	Robeson	Pembroke
86	William T. Culpepper, III	Chowan	Edenton
87	Donald A. Bonner	Robeson	Rowland
88	Theresa H. Esposito (R)	Forsyth	Winston-Salem
89	Mary L. Jarrell	Guilford	High Point
89	Maggie M. Jeffus	Guilford	Greensboro
90	Richard L. Moore	Cabarrus	Kannapolis
91	Edgar V. Starnes (R)	Caldwell	Granite Falls
92	J. Russell Capps (R)	Wake	Raleigh
93	John M. Rayfield (R)	Gaston	Belmont
94	Jerry C. Dockham (R)	Davidson	Denton
95	N. Leo Daughtry (R)	Johnston	Smithfield
96	Edd Nye	Bladen	Elizabethtown
97	Jerry Braswell	Wayne	Goldsboro
98	Thomas E. Wright	New Hanover	Wilmington

LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE MARC BASNIGHT, *COCHAIR*

HOUSE SPEAKER JAMES B. BLACK, *COCHAIR*

SEN. JOHN H. CARRINGTON
SEN. WALTER DALTON
SEN. VIRGINIA FOXX
SEN. R.L. "BOB" MARTIN
SEN. BRAD MILLER
SEN. ERIC REEVES
SEN. LARRY SHAW

REP. GORDON P. ALLEN
REP. WILLIAM T. CULPEEPER, III
REP. FLOSSIE BOYD-MCINTRYE
REP. STANLEY H. FOX
REP. LYONS GRAY
REP. WILMA M. SHERRILL
REP. JOE P. TOLSON

LEGISLATIVE SERVICES STAFF DIRECTORS

GEORGE R. HALL, JR.	Legislative Services Officer
GERRY F. COHEN	Director of the Bill Drafting Division
*THOMAS L. COVINGTON	Director of the Fiscal Research Division
TONY C. GOLDMAN	Director of the Information Systems Division
ELAINE W. ROBINSON	Director of the Administrative Division
TERRENCE D. SULLIVAN	Director of the Research Division
J. MICHAEL MINSHEW	Building Superintendent and Chief of Security

* Retired on November 30, 1999, and was replaced by James D. Johnson on December 1, 1999.

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

Section 1. *The equality and rights of persons.*

We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

Sec. 2. *Sovereignty of the people.*

All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 3. *Internal government of the State.*

The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

Sec. 4. *Secession prohibited.*

This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

Sec. 5. *Allegiance to the United States.*

Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

Sec. 6. *Separation of powers.*

The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

Sec. 7. *Suspending laws.*

All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

Sec. 8. *Representation and taxation.*

The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

Sec. 9. *Frequent elections.*

For redress of grievances and for amending and strengthening the laws, elections shall be often held.

Sec. 10. *Free elections.*

All elections shall be free.

Sec. 11. *Property qualifications.*

As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

Sec. 12. *Right of assembly and petition.*

The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

Sec. 13. *Religious liberty.*

All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

Sec. 14. *Freedom of speech and press.*

Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

Sec. 15. *Education.*

The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

Sec. 16. *Ex post facto laws.*

Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted.

No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

Sec. 17. *Slavery and involuntary servitude.*

Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

Sec. 18. *Courts shall be open.*

All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

Sec. 19. *Law of the land; equal protection of the laws.*

No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

Sec. 20. *General warrants.*

General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

Sec. 21. *Inquiry into restraints on liberty.*

Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

Sec. 22. *Modes of prosecution.*

Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

Sec. 23. *Rights of accused.*

In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

Sec. 24. *Right of jury trial in criminal cases.*

No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

Sec. 25. *Right of jury trial in civil cases.*

In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

Sec. 26. *Jury service.*

No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

Sec. 27. *Bail, fines, and punishments.*

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 28. *Imprisonment for debt.*

There shall be no imprisonment for debt in this State, except in cases of fraud.

Sec. 29. *Treason against the State.*

Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Sec. 30. *Militia and the right to bear arms.*

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.

Sec. 31. *Quartering of soldiers.*

No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

Sec. 32. *Exclusive emoluments.*

No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

Sec. 33. *Hereditary emoluments and honors.*

No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

Sec. 34. *Perpetuities and monopolies.*

Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

Sec. 35. *Recurrence to fundamental principles.*

A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sec. 36. *Other rights of the people.*

The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

Sec. 37. *Rights of victims of crime.*

(1) *Basic rights.* Victims of crime, as prescribed by law, shall be entitled to the following basic rights:

(a) The right as prescribed by law to be informed of and to be present at court proceedings of the accused.

(b) The right to be heard at sentencing of the accused in a manner prescribed by law, and at other times as prescribed by law or deemed appropriate by the court.

(c) The right as prescribed by law to receive restitution.

(d) The right as prescribed by law to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services for victims.

(e) The right as prescribed by law to receive information about the conviction or final disposition and sentence of the accused.

(f) The right as prescribed by law to receive notification of escape, release, proposed parole or pardon of the accused, or notice of a reprieve or commutation of the accused's sentence.

(g) The right as prescribed by law to present their views and concerns to the Governor or agency considering any action that could result in the release of the accused, prior to such action becoming effective.

(h) The right as prescribed by law to confer with the prosecution.

(2) *No money damages; other enforcement.* Nothing in this section shall be construed as creating a claim for money damages against the State, a county, a municipality, or any of the agencies, instrumentalities, or employees thereof. The General Assembly may provide for other remedies to ensure adequate enforcement of this section.

(3) *No ground for relief in criminal case.* The failure or inability of any person to provide a right or service provided under this section may not be used by a defendant in a criminal case, an inmate, or any other accused as a ground for relief in any trial, appeal, postconviction litigation, habeas corpus, civil action, or any similar criminal or civil proceeding.

ARTICLE II
LEGISLATIVE

Section 1. *Legislative power.*

The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

Sec. 2. *Number of Senators.*

The Senate shall be composed of 50 Senators, biennially chosen by ballot.

Sec. 3. *Senate districts; apportionment of Senators.*

The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 4. *Number of Representatives.*

The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

Sec. 5. *Representative districts; apportionment of Representatives.*

The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district;

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 6. *Qualifications for Senator.*

Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

Sec. 7. *Qualifications for Representative.*

Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

Sec. 8. *Elections.*

The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

Sec. 9. *Term of office.*

The term of office of Senators and Representatives shall commence on the first day of January next after their election.

Sec. 10. *Vacancies.*

Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

Sec. 11. *Sessions.*

(1) *Regular Sessions.* The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) *Extra sessions on legislative call.* The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

Sec. 12. *Oath of members.*

Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

Sec. 13. *President of the Senate.*

The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

Sec. 14. *Other officers of the Senate.*

(1) *President Pro Tempore - succession to presidency.* The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) *President Pro Tempore - temporary succession.* During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) *Other officers.* The Senate shall elect its other officers.

Sec. 15. *Officers of the House of Representatives.*

The House of Representatives shall elect its Speaker and other officers.

Sec. 16. *Compensation and allowances.*

The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

Sec. 17. *Journals.*

Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

Sec. 18. *Protests.*

Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

Sec. 19. *Record votes.*

Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

Sec. 20. *Powers of the General Assembly.*

Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

Sec. 21. *Style of the acts.*

The style of the acts shall be: "The General Assembly of North Carolina enacts:".

Sec. 22. *Action on bills.*

(1) *Bills subject to veto by Governor; override of veto.* Except as provided by subsections (2) through (6) of this section, all bills shall be read three times in each house and shall be signed by the presiding officer of each house before being presented to the Governor. If the Governor approves, the Governor shall sign it and it shall become a law; but if not, the Governor shall return it with objections, together with a veto message stating the reasons for such objections, to that house in which it shall have originated, which shall enter the objections and veto message at large on its journal, and proceed to reconsider it. If after such reconsideration three-fifths of the members of that house present and voting shall agree to pass the bill, it shall be sent, together with the objections and veto message, to the other house, by which it shall likewise be reconsidered; and if approved by three-fifths of the members of that house present and voting, it shall become a law notwithstanding the objections of the Governor. In all such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively.

(2) *Amendments to Constitution of North Carolina.* Every bill proposing a new or revised Constitution or an amendment or amendments to this Constitution or calling a convention of the people of this State, and containing no other matter, shall be submitted to the qualified voters of this State after it shall have been read three times in each house and signed by the presiding officers of both houses.

(3) *Amendments to Constitution of the United States.* Every bill approving an amendment to the Constitution of the United States, or applying for a convention to propose amendments to the Constitution of the United States, and containing no other matter, shall be read three times in each house before it becomes law, and shall be signed by the presiding officers of both houses.

(4) *Joint resolutions.* Every joint resolution shall be read three times in each house before it becomes effective and shall be signed by the presiding officers of both houses.

(5) *Other exceptions.* Every bill:

(a) In which the General Assembly makes an appointment or appointments to public office and which contains no other matter;

(b) Revising the senate districts and the apportionment of Senators among those districts and containing no other matter;

(c) Revising the representative districts and the apportionment of Representatives among those districts and containing no other matter; or

(d) Revising the districts for the election of members of the House of Representatives of the Congress of the United States and the

apportionment of Representatives among those districts and containing no other matter,

shall be read three times in each house before it becomes law and shall be signed by the presiding officers of both houses.

(6) *Local bills.* Every bill that applies in fewer than 15 counties shall be read three times in each house before it becomes law and shall be signed by the presiding officers of both houses. The exemption from veto by the Governor provided in this subsection does not apply if the bill, at the time it is signed by the presiding officers:

(a) Would extend the application of a law signed by the presiding officers during that two year term of the General Assembly so that the law would apply in more than half the counties in the State, or

(b) Would enact a law identical in effect to another law or laws signed by the presiding officers during that two year term of the General Assembly that the result of those laws taken together would be a law applying in more than half the counties in the State.

Notwithstanding any other language in this subsection, the exemption from veto provided by this subsection does not apply to any bill to enact a general law classified by population or other criteria, or to any bill that contains an appropriation from the State treasury.

(7) *Time for action by Governor; reconvening of session.* If any bill shall not be returned by the Governor within 10 days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly shall have adjourned:

(a) For more than 30 days jointly as provided under Section 20 of Article II of this Constitution; or

(b) Sine die

in which case it shall become a law unless, within 30 days after such adjournment, it is returned by the Governor with objections and veto message to that house in which it shall have originated. When the General Assembly has adjourned sine die or for more than 30 days jointly as provided under Section 20 of Article II of this Constitution, the Governor shall reconvene that session as provided by Section 5(11) of Article III of this Constitution for reconsideration of the bill, and if the Governor does not reconvene the session, the bill shall become law on the fortieth day after such adjournment. Notwithstanding the previous sentence, if the Governor prior to reconvening the session receives written requests dated no earlier than 30 days after such adjournment, signed by a majority of the members of each house that a reconvened session to reconsider vetoed legislation is unnecessary, the Governor shall not reconvene the session for that purpose and any legislation vetoed in accordance with this section after adjournment shall not become law.

(8) *Return of bills after adjournment.* For purposes of return of bills not approved by the Governor, each house shall designate an officer to receive returned bills during its adjournment.

Sec. 23. *Revenue bills.*

No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Sec. 24. *Limitations on local, private, and special legislation.*

(1) *Prohibited subjects.* The General Assembly shall not enact any local, private, or special act or resolution:

(a) Relating to health, sanitation, and the abatement of nuisances;
(b) Changing the names of cities, towns, and townships;
(c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
(d) Relating to ferries or bridges;
(e) Relating to non-navigable streams;
(f) Relating to cemeteries;
(g) Relating to the pay of jurors;
(h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;
(i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
(j) Regulating labor, trade, mining, or manufacturing;
(k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
(l) Giving effect to informal wills and deeds;
(m) Granting a divorce or securing alimony in any individual case;
(n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) *Repeals.* Nor shall the General Assembly enact any such local, private, or special act by the partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) *Prohibited acts void.* Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) *General laws.* The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III
EXECUTIVE

Section 1. *Executive power.*

The executive power of the State shall be vested in the Governor.

Sec. 2. *Governor and Lieutenant Governor: election, term, and qualifications.*

(1) *Election and term.* The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Qualifications.* No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to the office of Governor or Lieutenant Governor shall be eligible for election to more than two consecutive terms of the same office.

Sec. 3. *Succession to office of Governor.*

(1) *Succession as Governor.* The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) *Succession as Acting Governor.* During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) *Physical incapacity.* The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) *Mental incapacity.* The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may

deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) *Impeachment.* Removal of the Governor from office for any other cause shall be by impeachment.

Sec. 4. *Oath of office for Governor.*

The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

Sec. 5. *Duties of Governor.*

(1) *Residence.* The Governor shall reside at the seat of government of this State.

(2) *Information to General Assembly.* The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) *Budget.* The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

(4) *Execution of laws.* The Governor shall take care that the laws be faithfully executed.

(5) *Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) *Clemency.* The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) *Extra sessions.* The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) *Appointments.* The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) *Information.* The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) *Administrative reorganization.* The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

(11) *Reconvened sessions.* The Governor shall, when required by Section 22 of Article II of this Constitution, reconvene a session of the General Assembly. At such reconvened session, the General Assembly may only consider such bills as were returned by the Governor to that reconvened session for reconsideration. Such reconvened session shall begin on a date set by the Governor, but no later than 40 days after the General Assembly adjourned:

(a) For more than 30 days jointly as provided under Section 20 of Article II of this Constitution; or

(b) Sine die.

If the date of reconvening the session occurs after the expiration of the terms of office of the members of the General Assembly, then the members serving for the reconvened session shall be the members for the succeeding term.

Sec. 6. *Duties of the Lieutenant Governor.*

The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional

duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

Sec. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 60 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

(7) *Special Qualifications for Attorney General.* Only persons duly authorized to practice law in the courts of this State shall be eligible for appointment or election as Attorney General.

Sec. 8. *Council of State.*

The Council of State shall consist of the officers whose offices are established by this Article.

Sec. 9. *Compensation and allowances.*

The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

Sec. 10. *Seal of State.*

There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina". All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina", and signed by the Governor.

Sec. 11. *Administrative departments.*

Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV

JUDICIAL

Section 1. *Judicial power.*

The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

Sec. 2. *General Court of Justice.*

The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

Sec. 3. *Judicial powers of administrative agencies.*

The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

Sec. 4. *Court for the Trial of Impeachments.*

The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

Sec. 5. *Appellate division.*

The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

Sec. 6. *Supreme Court.*

(1) *Membership.* The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) *Sessions of the Supreme Court.* The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

Sec. 7. *Court of Appeals.*

The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

Sec. 8. *Retirement of Justices and Judges.*

The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court or courts of the division from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.

Sec. 9. *Superior Courts.*

(1) *Superior Court districts.* The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) *Open at all times; sessions for trial of cases.* The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) *Clerks.* A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

Sec. 10. *District Courts.*

The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

Sec. 11. *Assignment of Judges.*

The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

Sec. 12. *Jurisdiction of the General Court of Justice.*

(1) *Supreme Court.* The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal

inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts. The Supreme Court also has jurisdiction to review, when authorized by law, direct appeals from a final order or decision of the North Carolina Utilities Commission.

(2) *Court of Appeals.* The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) *Superior Court.* Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) *District Courts; Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) *Waiver.* The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

Sec. 13. *Forms of action; rules of procedure.*

(1) *Forms of Action.* There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) *Rules of procedure.* The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

Sec. 14. *Waiver of jury trial.*

In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

Sec. 15. *Administration.*

The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

Sec. 16. *Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.*

Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

Sec. 17. *Removal of Judges, Magistrates and Clerks.*

(1) *Removal of Judges by the General Assembly.* Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) *Additional method of removal of Judges.* The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) *Removal of Clerks.* Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

Sec. 18. *District Attorney and prosecutorial districts.*

(1) *District Attorneys.* The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a District Attorney. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) *Prosecution in District Court Division.* Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

Sec. 19. *Vacancies.*

Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 60 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

Sec. 20. *Revenues and expenses of the judicial department.*

The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

Sec. 21. *Fees, salaries, and emoluments.*

The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

Sec. 22. *Qualification of Justices and Judges.*

Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a Justice of the Supreme Court, Judge of the Court of Appeals, Judge of the Superior Court, or Judge of District Court. This section shall not apply to persons elected to or serving in such capacities on or before January 1, 1981.

ARTICLE V
FINANCE

Section 1. *No capitation tax to be levied.*

No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

Sec. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding $300, any personal property. The General Assembly may exempt from taxation not exceeding $1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Special tax areas.* Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) *Purposes of property tax.* The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law

uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

(7) *Contracts.* The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

Sec. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;
(b) to supply an unforeseen deficiency in the revenue;
(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
(d) to suppress riots or insurrections, or to repel invasions;
(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
(f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) *Gift or loan of credit regulated.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) *Definitions.* A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(4) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 4. *Limitations upon the increase of local government debt.*

(1) *Regulation of borrowing and debt.* The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for purposes authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) *Gift or loan of credit regulated.* No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) *Definitions.* A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 5. *Acts levying taxes to state objects.*

Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

Sec. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

Sec. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) *Local treasury.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

Sec. 8. *Health care facilities.*

Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter

approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations.

Sec. 9. *Capital projects for industry.*

Nothwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

Sec. 10. *Joint ownership of generation and transmission facilities.*

In addition to other powers conferred upon them by law, municipalities owning or operating facilities for the generation, transmission or distribution of electric power and energy and joint agencies formed by such municipalities for the purpose of owning or operating facilities for the generation and transmission of electric power and energy (each, respectively, "a unit of municipal government") may jointly or severally own, operate and maintain works, plants and facilities, within or without the State, for the generation and transmission of electric power and energy, or both, with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, "a co-owner") within this State or any state contiguous to this State, and may enter into and carry out agreements with respect to such jointly owned facilities. For the purpose of financing its share of the cost of any such jointly owned electric generation or transmission facilities, a unit of municipal government may issue its revenue bonds in the manner prescribed by the General Assembly, payable as to both principal and interest solely from and secured by a lien and charge on all or any part of the revenue derived, or to be derived, by such unit of municipal government from the ownership and operation of its electric facilities; provided, however, that no unit of municipal government shall be liable, either jointly or severally, for any acts, omissions or

obligations of any co-owner, nor shall any money or property of any unit of municipal government be credited or otherwise applied to the account of any co-owner or be charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner.

Sec. 11. *Capital projects for agriculture.*

Notwithstanding any other provision of the Constitution the General Assembly may enact general laws to authorize the creation of an agency to issue revenue bonds to finance the cost of capital projects consisting of agricultural facilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

Sec. 12. *Higher Education Facilities.*

Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State or any State entity to issue revenue bonds to finance and refinance the cost of acquiring, constructing, and financing higher education facilities to be operated to serve and benefit the public for any nonprofit private corporation, regardless of any church or religious relationship provided no cost incurred earlier than five years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from any revenues or assets of any such nonprofit private corporation pledged therefor, shall not be secured by a pledge of the full faith and credit of the State or such State entity or deemed to create an indebtedness requiring voter approval of the State or such entity, and, where the title to such facilities is vested in the State or any State entity, may be secured by an agreement which may provide for the conveyance of title to, with or without consideration, such facilities to the nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto.

Sec. 13. *Seaport and airport facilities.*

(1) Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to grant to the State, counties, municipalities, and other State and local governmental entities all powers useful in connection with the development of new and existing seaports and airports, and to authorize such public bodies:

(a) to acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise

dispose of lands and facilities and improvements, including undivided interest therein;

(b) to finance and refinance for public and private parties seaport and airport facilities and improvements which relate to, develop or further waterborne or airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements; and

(c) to secure any such financing or refinancing by all or any portion of their revenues, income or assets or other available monies associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of their properties associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of the faith and credit of the State or any other public body in the State.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

Section 1. *Who may vote.*

Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

Sec. 2. *Qualifications of voter.*

(1) *Residence period for State elections.* Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) *Residence period for presidential elections.* The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) *Disqualification of felon.* No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another

state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

Sec. 3. *Registration.*

Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

Sec. 4. *Qualification for registration.*

Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

Sec. 5. *Elections by people and General Assembly.*

All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

Sec. 6. *Eligibility to elective office.*

Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

Sec. 7. *Oath.*

Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I, ..., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as ....., so help me God."

Sec. 8. *Disqualifications for office.*

The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who has been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

Sec. 9. *Dual office holding.*

(1) *Prohibitions.* It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) *Exceptions.* The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

Sec. 10. *Continuation in office.*

In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII
LOCAL GOVERNMENT

Section 1. *General Assembly to provide for local government.*

The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by

order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

Sec. 2. *Sheriffs.*

In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

Sec. 3. *Merged or consolidated counties.*

Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII

CORPORATIONS

Section 1. *Corporate charters.*

No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

Sec. 2. *Corporations defined.*

The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

Section 1. *Education encouraged.*

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

Sec. 2. *Uniform system of schools.*

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

Sec. 3. *School attendance.*

The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

Sec. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

Sec. 5. *Powers and duties of Board.*

The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

Sec. 6. *State school fund.*

The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be

paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

Sec. 7. *County school fund.*

All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

Sec. 8. *Higher education.*

The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

Sec. 9. *Benefits of public institutions of higher education.*

The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

Sec. 10. *Escheats.*

(1)**Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2)**Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

Section 1. *Personal property exemptions.*

The personal property of any resident of this State, to a value fixed by the General Assembly but not less than $500, to be selected by the resident, is

exempted from sale under execution or other final process of any court, issued for the collection of any debt.

Sec. 2. *Homestead exemptions.*

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than $1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of surviving spouse.* If the owner of a homestead dies, leaving a surviving spouse but no minor children, the homestead shall be exempt from the debts of the owner, and the rents and profits thereof shall inure to the benefit of the surviving spouse until he or she remarries, unless the surviving spouse is the owner of a separate homestead.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse.

Sec. 3. *Mechanics' and laborers' liens.*

The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

Sec. 4. *Property of married women secured to them.*

The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

Sec. 5. *Insurance.*

A person may insure his or her own life for the sole use and benefit of his or her spouse or children or both, and upon his or her death the proceeds from the insurance shall be paid to or for the benefit of the spouse or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse or children or both shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

PUNISHMENTS, CORRECTIONS, AND CHARITIES

Section 1. *Punishments.*

The following punishments only shall be known to the laws of this State: death, imprisonment, fines, suspension of a jail or prison term with or without conditions, restitution, community service, restraints on liberty, work programs, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

Sec. 2. *Death punishment.*

The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

Sec. 3. *Charitable and correctional institutions and agencies.*

Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

Sec. 4. *Welfare policy; board of public welfare.*

Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

MILITARY FORCES

Section 1. *Governor is Commander in Chief.*

The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII

CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

Section 1. *Convention of the People.*

No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act submitting the convention proposition, propose limitations upon the authority of the Convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

Sec. 2. *Power to revise or amend Constitution reserved to people.*

The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

Sec. 3. *Revision or amendment by Convention of the People.*

A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

Sec. 4. *Revision or amendment by legislative initiation.*

A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are

in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV
MISCELLANEOUS

Section 1. *Seat of government.*

The permanent seat of government of this State shall be at the City of Raleigh.

Sec. 2. *State boundaries.*

The limits and boundaries of the State shall be and remain as they now are.

Sec. 3. *General laws defined.*

Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

Sec. 4. *Continuity of laws; protection of office holders.*

The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

Sec. 5. *Conservation of natural resources.*

It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire

and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve", and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.

SESSION LAWS

OF THE

STATE OF NORTH CAROLINA

REGULAR SESSION 1999

S.B. 108 **SESSION LAW 1999-1**

AN ACT TO PERMIT THE STATE TO PROVIDE SCHOOL AND ACTIVITY BUSES FOR THE TRANSPORTATION NEEDS OF THE SPECIAL OLYMPICS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1998-10 reads as rewritten:

"Section 2. Notwithstanding any other provisions of law, the Johnston County, Wake County, Orange County, ~~and~~ Durham County and any public school ~~systems~~ system within which there is a participating host town may permit, under terms and conditions set by the public school ~~systems,~~ system, the use and operation of public school buses and activity buses by the 1999 Special Olympics World Summer Games Organizing Committee, Inc., for the transportation of persons officially associated with the 1999 Special Olympics World Summer Games for the ~~periods from May 28, 1998, through May 31, 1998, and~~ period from ~~June 19,~~ June 15, 1999, through July 10, 1999."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of March, 1999.

Became law upon approval of the Governor at 9:17 a.m. on the 10th day of March, 1999.

S.B. 6 **SESSION LAW 1999-2**

AN ACT TO APPROVE THE CREATION OF THE NONPROFIT CORPORATION ESTABLISHED PURSUANT TO COURT ORDER FOR THE PURPOSES OF RECEIPT AND DISTRIBUTION OF FIFTY PERCENT OF THE FUNDS RECEIVED BY THE STATE IN STATE OF NORTH CAROLINA V. PHILIP MORRIS INCORPORATED, ET

AL., INCLUDING THE MANNER, TERMS, AND CONDITIONS OF APPOINTMENT OF THE CORPORATION'S BOARD OF DIRECTORS, TO CONDITIONALLY ASSIGN TO THE NONPROFIT CORPORATION THE RIGHT, TITLE, AND INTEREST IN THE ANNUAL PAYMENTS CONSTITUTING FIFTY PERCENT OF NORTH CAROLINA'S STATE SPECIFIC ACCOUNT, TO REQUIRE THE ATTORNEY GENERAL TO DRAFT AND FILE ARTICLES OF INCORPORATION FOR THE NONPROFIT CORPORATION CONCERNING CONSULTATION AND REVIEW, APPLICABILITY OF PUBLIC RECORDS AND OPEN MEETINGS LAWS, TRANSFER OF ASSETS AND DISSOLUTION, AND CHARTER REPEAL AND AMENDMENT AS A CONDITION PRECEDENT TO THE ASSIGNMENT OF PAYMENTS TO THE CORPORATION, TO EXPRESS THE INTENT OF THE GENERAL ASSEMBLY THAT TOBACCO PRODUCTION INTERESTS, TOBACCO MANUFACTURING INTERESTS, TOBACCO-RELATED EMPLOYMENT INTERESTS, HEALTH INTERESTS, AND ECONOMIC DEVELOPMENT INTERESTS SHALL BE REPRESENTED ON THE CORPORATION'S BOARD OF DIRECTORS, TO EXPRESS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH A TRUST FUND TO RECEIVE AND DISTRIBUTE TWENTY-FIVE PERCENT OF THE TOBACCO LITIGATION MASTER SETTLEMENT AGREEMENT FUNDS FOR THE BENEFIT OF TOBACCO PRODUCERS, TOBACCO ALLOTMENT HOLDERS, AND PERSONS ENGAGED IN TOBACCO-RELATED BUSINESSES, INCLUDING DIRECT AND INDIRECT FINANCIAL ASSISTANCE AND INDEMNIFICATION TO THESE BENEFICIARIES TO THE EXTENT ALLOWED BY LAW AND IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE TRUST FUND'S BOARD OF TRUSTEES, WITH THE TRUST FUND GOVERNED BY TRUSTEES REPRESENTING THESE INTERESTS, AND TO EXPRESS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH A SEPARATE TRUST FUND TO RECEIVE AND DISTRIBUTE TWENTY-FIVE PERCENT OF THE TOBACCO LITIGATION MASTER SETTLEMENT AGREEMENT FUNDS FOR THE BENEFIT OF HEALTH, WITH THE TRUST FUND GOVERNED BY A BOARD OF TRUSTEES COMPRISED OF A BROAD REPRESENTATION OF HEALTH INTERESTS.

Whereas, the State of North Carolina filed an action against Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation (individually and as successor by merger to The American Tobacco Company), Lorillard Tobacco Company, and Liggett Group, Inc., on December 21, 1998, entitled State of North Carolina v. Philip Morris Incorporated, Et Al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina; and

Whereas, the State of North Carolina entered into a Consent Decree and Final Judgment with the defendants to resolve the action in a manner

that addresses the State's claims, while conserving the resources of the parties and the Court; and

Whereas, the Consent Decree and Final Judgment directs the Attorney General to create a nonprofit corporation for purposes of receipt and distribution of fifty percent of the funds allocated to North Carolina; and

Whereas, the Consent Decree and Final Judgment provides that, as a condition precedent to the organization of the nonprofit corporation, the creation of the corporation must be approved by the North Carolina General Assembly not later than March 15, 1999, unless extended by the Court, and must be approved by the Court; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The creation of the nonprofit corporation pursuant to subparagraph VI.A.1 of the Consent Decree and Final Judgment entered in that action of 98 CVS 14377 on December 21, 1998, is hereby approved for the purposes and on the terms and conditions set forth in subparagraph VI.A.1 of the Consent Decree and Final Judgment.

Section 2(a). Except as provided in subsection 2(b), transfer and assignment to the nonprofit corporation referred to in Section 1 of this act of the right, title, and interest of the State to each annual installment payment constituting the fifty percent (50%) of North Carolina's State Specific Account specified in subparagraph VI.A.1 of the Consent Decree is hereby approved.

Section 2(b). Unless provided otherwise by an act of the General Assembly before the installment payment is received in North Carolina's State Specific Account, the right, title, and interest to each installment payment vests in the nonprofit corporation upon receipt of that payment in North Carolina's State Specific Account for the public charitable purposes of providing economic impact assistance to economically affected or tobacco dependent regions of North Carolina. These funds shall be distributed to the nonprofit corporation under the Consent Decree and shall constitute support of the nonprofit corporation from the State of North Carolina.

Section 2(c). The General Assembly also approves the provisions in the Consent Decree concerning the governance of the nonprofit corporation by 15 directors holding staggered, four-year terms, five directors to be appointed by the Governor of the State of North Carolina, five by the President Pro Tempore of the North Carolina Senate, and five by the Speaker of the North Carolina House of Representatives, respectively in their sole discretion; and that the Governor shall appoint the first Chair among his appointees, and the directors shall elect their own Chair from among their number for subsequent terms. Members of the General Assembly may not be appointed to serve on the board of directors while serving in the General Assembly.

Section 3. The Attorney General shall draft articles of incorporation for the nonprofit corporation to enable the nonprofit corporation to carry out its mission as set out in the Consent Decree. The articles of incorporation shall provide for the following:

(1) Consultation; reporting. -- The nonprofit corporation shall consult with the Joint Legislative Commission on Governmental Operations

("Commission") prior to the corporation's board of directors (i) adopting bylaws and (ii) adopting the annual operating budget. The nonprofit corporation shall also report on its programs and activities to the Commission on or before March 1 of each fiscal year and more frequently as requested by the Commission. The report shall include information on the activities and accomplishments during the fiscal year, itemized expenditures during the fiscal year, planned activities and goals for at least the next 12 months, and itemized anticipated expenditures for the next fiscal year. The nonprofit corporation shall also annually provide to the Commission an itemized report of its administrative expenses and copies of its annual report and tax return information.

(2) Public records; open meetings. -- The nonprofit corporation is subject to the Open Meetings Law as provided in Article 33C of Chapter 143 of the General Statutes and the Public Records Act as provided in Chapter 132 of the General Statutes. The nonprofit corporation shall publish at least annually a report, available to the public and filed with the Joint Legislative Commission on Governmental Operations, of every expenditure or distribution in furtherance of the public charitable purposes of the nonprofit corporation.

(3) Transfer of assets. -- The nonprofit corporation may not dispose of assets pursuant to G.S. 55A-12-02 without the approval of the General Assembly.

(4) Charter repeal. -- The charter of the nonprofit corporation may be repealed at any time by the legislature pursuant to Article VIII, Section 1 of the North Carolina Constitution. The nonprofit corporation may not amend its articles of incorporation without the approval of the General Assembly.

(5) Dissolution. -- The nonprofit corporation may be dissolved pursuant to Chapter 55A of the General Statutes, by the General Assembly, or by the Court pursuant to the Consent Decree. Upon dissolution, all unencumbered assets and funds of the nonprofit corporation, including the right to receive future funds pursuant to Section 2 of this act, are transferred to the Settlement Reserve Fund established pursuant to G.S. 143-16.4.

Section 4. The nonprofit corporation's right to receive funds pursuant to Section 2 of this act is contingent upon the filing of articles of incorporation that comply with Section 3 of this act.

Section 5. It is the intent of the General Assembly that the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate, in appointing directors to the nonprofit corporation, shall, in their sole discretion, include among their appointments representatives of tobacco production, tobacco manufacturing, tobacco-related employment, health, and economic development interests, with each appointing authority selecting at least two directors from these interests. It is also the intent of the General Assembly that the appointing authorities, in appointing directors, shall appoint members that represent the geographic, gender, and racial diversity of the State.

Section 6. It is the intent of the General Assembly that the funds under the Master Settlement Agreement, which is incorporated into the Consent Decree, be allocated as follows:

(1) Fifty percent (50%) to the nonprofit corporation as provided by the Consent Decree.

(2) Twenty-five percent (25%) to a trust fund to be established by the General Assembly for the benefit of tobacco producers, tobacco allotment holders, and persons engaged in tobacco-related businesses, with this trust fund to be governed by a board of trustees representing these interests. To carry out this purpose, this trust fund may provide direct and indirect financial assistance, in accordance with criteria established by the trustees of the trust fund and to the extent allowed by law, to (i) indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses from the adverse economic effects of the Master Settlement Agreement, (ii) compensate tobacco producers and allotment holders for the economic loss resulting from lost quota, and (iii) revitalize tobacco dependent communities.

(3) Twenty-five percent (25%) to a trust fund to be established by the General Assembly for the benefit of health, with this trust fund to be governed by a board of trustees comprised of a broad representation of health interests.

Section 7. Chapter 55A of the General Statutes is amended by adding a new section to read:

"*§ 55A-3-07. Certain corporations subject to Public Records Act and Open Meetings Law.*

Any corporation organized under this Chapter under the terms of any consent decree and final judgment in any civil action calling on a state officer to create the corporation, for the purposes of receipt and distribution of funds allocated to the State of North Carolina to provide economic impact assistance on account of one industry, is subject to the Public Records Act (Chapter 132 of the General Statutes) and the Open Meetings Law (Article 33C of Chapter 143 of the General Statutes)."

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of March, 1999.

Became law upon approval of the Governor at 5:21 p.m. on the 16th day of March, 1999.

S.B. 23 **SESSION LAW 1999-3**

AN ACT TO CLARIFY THE LAW REGULATING MASS GATHERINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-252 reads as rewritten:

"*§ 130A-252. Definition of mass ~~gathering.~~ gathering; applicability of Part.*

(a) For the purposes of this Part, "mass gathering" means a congregation or assembly of more than 5,000 people in an open space or open air for a period of more than 24 hours. A mass gathering shall include all

congregations and assemblies organized or held for any purpose, but shall not include assemblies in permanent buildings or permanent structures designed or intended for use by a large number of people. To determine whether a congregation or assembly extends for more than 24 hours, the period shall begin when the people expected to attend are first permitted on the land where the congregation or assembly will be held and shall end when the people in attendance are expected to depart. To determine whether a congregation or assembly shall consist of more than 5,000 people, the number reasonably expected to attend, as determined from the promotion, advertisement and preparation for the congregation or assembly and from the attendance at prior congregations or assemblies of the same type, shall be considered.

(b) The provisions of this Part do not apply to permanent stadiums with adjacent campgrounds that host annual events attracting crowds in excess of 70,000 people."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of March, 1999.

Became law upon approval of the Governor at 9:27 a.m. on the 18th day of March, 1999.

S.B. 26 **SESSION LAW 1999-4**

AN ACT TO REPEAL THE PROHIBITION ON REIMBURSEMENT FOR SERVICES PROVIDED BY SCHOOL-BASED HEALTH CLINICS UNDER THE CHILDREN'S HEALTH INSURANCE PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of S.L. 1998-1, Extra Session 1998, reads as rewritten:

"Section 8. ~~Except for immunization, no State funds, federal funds, or funds from any other source may be used under the Health Insurance Program for Children established under this act to reimburse medical services performed in school-based health clinic settings.~~ The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall conduct a survey of any claims paid by the Plan's self-insured indemnity program during each of the last three plan years. Any results of the survey shall be used by the Plan in conducting a study of the array of medical services delivered in school-based settings and whether or not such services should be eliminated, curtailed, or expanded. No later than March 31, 1999, the Plan shall make its findings and recommendations pursuant to this study known to the Committee on Employee Hospital and Medical Benefits, the Joint Legislative Health Care Oversight Committee, and the 1999 Session of the General Assembly."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of March, 1999.

Became law upon approval of the Governor at 3:10 p.m. on the 18th day of March, 1999.

H.B. 31 **SESSION LAW 1999-5**

AN ACT TO AUTHORIZE THE CITY OF SHELBY TO CONVEY CERTAIN DESCRIBED PROPERTY BY PRIVATE SALE TO THE COUNCIL ON THE AGING OF CLEVELAND COUNTY, NORTH CAROLINA, INC.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Shelby may convey by private negotiation and sale to the Council on the Aging of Cleveland County, North Carolina, Inc., with or without monetary consideration, any or all of its right, title, and interest in the following described property:

Beginning at a point in the right-of-way on the south side of East Marion Street, a common corner of the properties shown on Cleveland County Tax Map number S-4, and being lots 7 and 8 of block number 4 of said tax map. Thence with the south right-of-way of East Marion Street S 89-48-15 E 187.22' to the common corner of lots 8 and 11. Thence leaving East Marion Street right-of-way and continuing with the common line between lots 8 and 11 S 04-09-15 E 240.00' to a point. Thence continuing a new line across the City of Shelby property as shown on tax map number 14, block 1, and lot 11 S 04-09-15 E 200.00' to the north right-of-way of East Warren Street. Thence with the north right-of-way of East Warren Street N 84-51-00 W 125.41' to a point. Thence leaving the right-of-way the following calls: N 02-34-10 E 110.00', N 04-08-56 W 78.91', N 04-09-15 W 90.00', N 89-48-15 W 76.00', N 04-09-15 W 150.00' to the place of beginning.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of March, 1999.

Became law on the date it was ratified.

H.B. 37 **SESSION LAW 1999-6**

AN ACT REQUIRING THE CONSENT OF LENOIR AND WAYNE COUNTIES BEFORE LAND IN THOSE COUNTIES MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE THOSE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-15(c) reads as rewritten:

"(c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin,

McDowell, Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wayne, Wilkes, and Yancey Counties only."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of March, 1999.

Became law on the date it was ratified.

H.B. 68 **SESSION LAW 1999-7**

AN ACT TO PROVIDE FOUR-YEAR TERMS FOR THE MAYOR AND ALDERMEN OF THE TOWN OF CHINA GROVE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of the Charter of the Town of China Grove, being Chapter 309 of the Private Laws of 1903, reads as rewritten:

"Sec. 3. The officers of ~~said corporation~~ the town shall be a Mayor and five Aldermen, who shall be elected ~~biennially, and whose term of office shall begin as provided in the general election law for municipal corporations, as passed by the Legislature of 1901.~~ to four-year terms, except as provided otherwise in this section.

In 1999, and quadrennially thereafter, a Mayor shall be elected to a four-year term.

In 1999, for the position of Alderman, the two persons receiving the highest number of votes shall be elected to four-year terms and the three persons receiving the next highest number of votes shall be elected to two-year terms. In 2001, and quadrennially thereafter, three persons shall be elected to four-year terms. In 2003, and quadrennially thereafter, two persons shall be elected to four-year terms."

Section 2. This act applies beginning with persons elected in 1999.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of March, 1999.

Became law on the date it was ratified.

H.B. 129 **SESSION LAW 1999-8**

AN ACT TO PERMIT THE CITY OF BREVARD TO CONVEY CERTAIN PARCELS OF REAL PROPERTY TO PRIVATE LANDOWNERS IN EXCHANGE FOR PUBLIC RIGHTS-OF-WAY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, the City of Brevard may transfer by private conveyance, with or without monetary consideration, all or part of its right, title, and interest in and to parcels of real estate owned by it in exchange for rights-of-way for public utilities and public roadways, provided that the

parcels conveyed are of comparable value to the rights-of-way exchanged for the parcels, as determined by the City Council.

Section 2. The City of Brevard may convey properties described in Section 1 of this act provided that the value of the properties, in any one instance, does not exceed five thousand dollars ($5,000).

Section 3. This act applies only to the City of Brevard in Transylvania County.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of March, 1999.

Became law on the date it was ratified.

S.B. 43 **SESSION LAW 1999-9**

AN ACT TO CONSOLIDATE THE TOWN OF ALEXANDER MILLS INTO THE TOWN OF FOREST CITY.

The General Assembly of North Carolina enacts:

Section 1. (a) The Town of Alexander Mills is merged into the Town of Forest City. The effective date of the merger is July 1, 1999. The Town of Alexander Mills is abolished as a separate municipal corporation.

(b) Subsection (a) of this section is effective only if approved in a referendum by the qualified voters of the Town of Alexander Mills.

(c) The referendum shall be held on a date set by the Rutherford County Board of Elections, but no later than May 31, 1999. It may be held on the same day as any other referendum or election in the county, but may not otherwise be held during the period beginning 50 days before and ending 50 days after the day of any other referendum or election to be conducted by the board of elections conducting the referendum and already validly called or scheduled by law. The proposition submitted to the voters shall be in the form approved by the Rutherford County Board of Elections.

Section 2. (a) On the effective date of the merger, all property, real and personal and mixed, including accounts receivable, belonging to the Town of Alexander Mills, shall by operation of law vest in, belong to, and be the property of the Town of Forest City. The governing body of the Town of Alexander Mills shall take such additional actions and execute such documents as will carry into effect the provisions and the intent of this section.

(b) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Alexander Mills shall vest in and remain and inure to the benefit of the Town of Forest City.

(c) All taxes, assessments, water or sewer charges, and any other charges or fees, owed to the Town of Alexander Mills shall be owed to and collected by the Town of Forest City.

(d) All actions, suits, and proceedings pending against, or having been instituted by the Town of Alexander Mills, shall not be abated by this act or by the merger herein provided for, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if merger had not occurred, and the Town of Forest City shall be a party to all

such actions, suits, and proceedings in the place and stead of the Town of Alexander Mills and shall pay or cause to be paid any judgments rendered against the Town of Alexander Mills in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding.

(e) All obligations of the Town of Alexander Mills, including outstanding indebtedness, shall be assumed by the Town of Forest City, and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the Town of Forest City.

(f) The Town of Forest City may adopt any ordinances, rules, and regulations under Article 19 of Chapter 160A of the General Statutes prior to July 1, 1999, as to the area of the Town of Alexander Mills, to become effective not earlier than July 1, 1999. All other ordinances of the Town of Forest City become effective July 1, 1999, in the area formerly of the Town of Alexander Mills except as provided by subsection (g) of this section.

(g) All franchises heretofore granted by the Town of Alexander Mills, which are still in force, shall continue as valid franchises of the Town of Forest City for the purposes granted within the area formerly comprising the Town of Alexander Mills, but shall not hereby be constituted valid franchises for any other portion of the corporate limits of the Town of Forest City.

(h) The Town of Forest City shall assume responsibility for all current and future liabilities of the Town of Alexander Mills for unemployment insurance benefit charges under G.S. 96-9(f)(1).

Section 3. The Charter of the Town of Forest City, being Chapter 209, Session Laws of 1981, is amended by adding the following new section:

"Sec. 1.4. The corporate limits of the Town of Forest City also include all areas within the corporate limits of the Town of Alexander Mills on the date the Town of Alexander Mills was merged into the Town of Forest City."

Section 4. The Mayor and Town Commissioners of the Town of Forest City continue in existence after the consolidation. The Mayor and Commissioners of the Town of Alexander Mills are abolished as of July 1, 1999, but shall continue from that date until the organizational meeting after the 1999 Forest City municipal election as an advisory panel of the Town of Forest City to provide information and guidance in regard to matters pertaining to the area which was formerly the Town of Alexander Mills. In the 1999 municipal election, residents of the area formerly the Town of Alexander Mills shall have full rights to be candidates for elective office in the Town of Forest City as provided by law.

Section 5. All property that had a tax situs in the Town of Alexander Mills on January 1, 1999, shall be considered to have a tax situs in the Town of Forest City for the appropriate fiscal year, and any property properly listed for taxation in the Town of Alexander Mills is properly listed for taxation in the Town of Forest City.

Section 6. Chapter 5, Private Laws of 1925, being the Charter of the Town of Alexander Mills, is repealed.

Section 7. Sections 2 through 6 of this act become effective only if the Town of Alexander Mills is merged into the Town of Forest City under Section 1 of this act.

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of March, 1999.

Became law on the date it was ratified.

S.B. 33 **SESSION LAW 1999-10**

AN ACT CONCERNING ANNEXATION OF CERTAIN PROPERTY BY THE TOWN OF CLAYTON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(5) does not apply to the Town of Clayton for any noncontiguous annexation with the following area:

Lying and being situated in Wilder Township, Johnston County, containing 786.19 acres, more or less, and more particularly described as follows:

BEING all of that property as shown on the plats entitled "Survey for the Raleigh Rescue Mission, Inc., Wilder Township, Johnston County, North Carolina," dated August 1, 1990, prepared by Derward W. Baker and Associates P.A., Registered Land Surveyors, and recorded in Plat Book 35, Page 381, Johnston County Registry and "Property of Joseph M. Hester, Jr., et al." dated October 4, 1996, prepared by Joyner, Keeny & Associates, Registered Land Surveyors, and recorded in Plat Book 48, Page 359, Johnston County Registry, to which reference is hereby made for a more particular description.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of March, 1999.

Became law on the date it was ratified.

S.B. 156 **SESSION LAW 1999-11**

AN ACT TO REMOVE THE SUNSET ON THE AUTHORITY OF THE LAKE ROYALE COMMUNITY IN FRANKLIN AND NASH COUNTIES TO REGULATE THE OPERATION OF CERTAIN MOTOR VEHICLES AND TO ENHANCE THAT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 1.1 of S.L. 1997-294 reads as rewritten:

"Section 1.1. Chapter 96 of the 1995 Session Laws is amended by adding new section to read:

'Section 3.1. (a) The provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles are applicable to the streets, roadways, and alleys on the properties owned by or under the control of the Lake Royale Property Owners Association, Inc., or the members of the Lake Royale Property Owners Association, Inc. For purposes of this act, streets, roadways, and alleys in

the Lake Royale Community shall have the same meaning as highways and public vehicular areas pursuant to G.S. 20-4.01. A violation of any of those laws is punishable as prescribed by those laws.

(b) This section is enforceable by any company policeman appointed under Chapter 74E of the General Statutes, certified by the North Carolina Criminal Justice Education and Training Standards Commission, and employed by the Lake Royale Property Owners Association, Inc.

(c) Golf carts, all terrain vehicles (ATVs), and dirt bikes may be operated within the confines of the Lake Royale Community only if all of the following conditions are met:

(1) The vehicle displays a banner or pennant of not less than 24 square inches and which is attached to a support or antenna extending at least six feet above the pavement.

(2) The vehicle is registered with the Lake Royale Property Owners Association, Inc., and has affixed to it a current Lake Royale registration sticker.

(3) The vehicle is not operated between dusk and sunrise unless equipped with front and rear lights as described in G.S. 20-131.

(4) The vehicle is operated on streets, roadways, alleys, and designated trails by a person holding a valid drivers license.

~~(c)~~ (d) This section shall not be construed as in any way interfering with the ownership and control of the streets, roadways, and alleys of the Lake Royale Property Owners Association, Inc., or its members as is now vested by law in that association or its members. The speed limits within the Lake Royale Community shall be the same as those in effect at the time of ratification of this act. Any proposed change in the speed limit shall be submitted to and approved by the Boards of Commissioners of Franklin or Nash County, whichever has jurisdiction. Pursuant to G.S. 20-141, the Franklin and Nash County Boards of Commissioners may authorize by ordinance higher or lower speeds.

~~(d)~~ (e) This section applies only to the Lake Royale Community in Franklin and Nash Counties.'"

Section 2. Section 5 of Chapter 96 of the 1995 Session Laws, as amended by Section 1 of S.L. 1997-294, insofar as it applies to the Lake Royale Community in Franklin and Nash Counties, is repealed.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of March, 1999.

Became law on the date it was ratified.

H.B. 145 **SESSION LAW 1999-12**

AN ACT TO PROVIDE A SPECIAL ELECTION FOR A VACANCY ON THE EDGECOMBE COUNTY BOARD OF EDUCATION AND TO PROVIDE THAT FUTURE VACANCIES ON THE BOARD SHALL BE FILLED ONLY UNTIL THE NEXT REGULARLY SCHEDULED ELECTION FOR THE BOARD RATHER THAN FOR THE REMAINDER OF THE TERM.

The General Assembly of North Carolina enacts:

Section 1.(a) There currently exists a vacancy on the Edgecombe County Board of Education for the member to represent District 4 as provided in Chapter 809 of the Session Laws of 1991. The term for which the vacancy exists expires in 2000. Notwithstanding the provisions of Section 6 of Chapter 809 of the Session Laws of 1991 concerning the filling of vacancies on the board, the Edgecombe County Board of Elections shall schedule and conduct an election to fill the vacancy for the remainder of the unexpired term of that office.

Section 1.(b) The election shall be nonpartisan and shall be determined by a substantial plurality and by a runoff, if needed, as provided in Section 3 of Chapter 809 of the Session Laws of 1991. A person must reside in District 4 at the time of filing the notice of candidacy to be eligible to be a candidate in the election.

Section 1.(c) Upon preclearance under section 5 of the Voting Rights Act of 1965 of the portion of this act authorizing the special election, the Edgecombe County Board of Elections, in consultation with the State Board of Elections and the Edgecombe County Board of Education, shall set and publicize a schedule for the special election at the earliest convenient date. The schedule shall include a filing period of two weeks.

Section 1.(d) The person elected to fill the vacancy in District 4 at the special election shall take office at the first regular meeting of the Board of Education following the certification of the results of the election and shall serve the remainder of the unexpired term of that office.

Section 2. Section 6 of Chapter 809 of the 1991 Session Laws reads as rewritten:

"Sec. 6. (a) Any vacancy on the board shall be filled by appointment by the remaining members of the board. The person appointed to fill the vacancy must reside in the district in which the vacancy occurs. The person appointed to fill the vacancy shall serve the remainder of the unexpired term of the vacating ~~member.~~ member if, (i) the term of office expires the same year as the next election for members of the board of education, or (ii) the vacancy occurs after the tenth day before the filing period ends under G.S. 163-106(c) preceding the next election. Otherwise, an election shall be held to fill the office for the remainder of the unexpired term, and the person appointed shall serve only until the person elected at that time qualifies and takes office.

(b) If the vacancy occurs after the filing period opens, and an election is to be held that year to elect a person to serve the remainder of the unexpired term under subsection (a) of this section, then filing shall open at 12:00 noon on the next business day and shall close seven days after it would have closed under G.S. 163-106.

(c) The provisions of G.S. 115C-37(f) do not apply to the Edgecombe County Board of Education."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this 31st day of March, 1999.

Became law on the date it was ratified.

S.B. 560 **SESSION LAW 1999-13**

AN ACT TO CLARIFY THAT MARKETS THAT SELL UNCOOKED CURED COUNTRY HAM OR UNCOOKED CURED SALTED PORK THAT INVOLVES CERTAIN MINIMAL PREPARATION ARE EXEMPT FROM REGULATION UNDER CHAPTER 130A OF THE GENERAL STATUTES WHEN THAT MINIMAL PREPARATION IS THE ONLY ACTIVITY THAT WOULD SUBJECT THESE MARKETS TO SUCH REGULATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-250 is amended by adding a new subdivision to read:

"§ *130A-250. Exemptions.*

The following shall be exempt from this Part:

...

(10) Markets that sell uncooked cured country ham or uncooked cured salted pork and that engage in minimal preparation such as slicing, weighing, or wrapping the ham or pork, when this minimal preparation is the only activity that would otherwise subject these markets to regulation under this Part."

Section 2. This act is effective when it becomes law and applies to establishments that are in operation on or after that date.

In the General Assembly read three times and ratified this the 31st day of March, 1999.

Became law upon approval of the Governor at 6:20 p.m. on the 31st day of March, 1999.

S.B. 41 **SESSION LAW 1999-14**

AN ACT TO REQUIRE THAT EVERY DWELLING UNIT LEASED AS RENTAL PROPERTY IN CERTAIN CITIES BE FURNISHED WITH A SOURCE OF HEAT.

The General Assembly of North Carolina enacts:

Section 1. Part 6 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ *160A-443A. Heat source required.*

(a) A city shall, by ordinance, require that by January 1, 2000, every dwelling unit leased as rental property within the city shall have, at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured three feet above the floor with an outside temperature of 20 degrees Fahrenheit.

(b) If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (a) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (a) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.

(c) Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (a) of this section but may be used as a supplementary source in single family dwellings and duplex units. An owner who has complied with subsection (a) shall not be held in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(d) This section applies only to cities with a population of 200,000 or over, according to the most recent decennial federal census.

(e) Nothing in this section shall be construed as:

(1) Diminishing the rights of or remedies available to any tenant under a lease agreement, statute, or at common law; or

(2) Prohibiting a city from adopting an ordinance with more stringent heating requirements than provided for by this section."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of March, 1999.

Became law upon approval of the Governor at 1:40 p.m. on the 1st day of April, 1999.

H.B. 501 **SESSION LAW 1999-15**

AN ACT TO AMEND THE LAW REGARDING APPOINTMENTS AND COMPENSATION OF HOSPITAL AUTHORITIES IN CRAVEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-18(a) reads as rewritten:

"(a) The ~~mayor or the chairman of the county board~~ board of county commissioners shall appoint the commissioners of the ~~authority.~~ authority in accordance with subsection (d) of this section, as modified in its applicability to Craven County by Chapter 190 of the 1989 Session Laws. There shall be ~~not less than six~~ not fewer than 11 and not more than 30 commissioners. Upon a finding that it is in the public interest, the board of county commissioners may adopt a resolution increasing or decreasing the number of commissioners by a fixed number; Provided that no decrease in the number of commissioners shall shorten a commissioner's term. ~~A certified copy of the resolution and a list of nominees shall be submitted to the mayor or the chairman of the county board of commissioners for appointments in accordance with the procedures set forth in subsection (d) of this section.~~"

Section 2. Section 2 of Chapter 922 of the 1987 Session Laws, Regular Session 1988, is repealed.

Section 3. This act applies to Craven County only.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of April, 1999.

Became law on the date it was ratified.

S.B. 300 **SESSION LAW 1999-16**

AN ACT REPEALING THE TOWN OF CALABASH'S LIMITATIONS ON THE HEIGHT OF BUILDINGS, EXTENDING THE TOWN'S EXTRATERRITORIAL JURISDICTION, INCREASING THE NUMBER OF TOWN COMMISSIONERS, AND STAGGERING THE COMMISSIONERS' TERMS.

The General Assembly of North Carolina enacts:

Section 1 Chapter 621 of the 1995 Session Laws is repealed.

Section 2. In addition to any areas where the Town of Calabash exercises extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes, the Town shall have extraterritorial jurisdiction under that Article in the following described area:

From that portion of the existing extraterritorial jurisdiction line that bisects the Ocean Harbour Golf Course in a southeasterly manner through the Ocean Harbour Estates subdivision to the middle of the Intracoastal Waterway.

Section 3. Section 1.(f) of S.L. 1998-75 reads as rewritten:

"(f) Beginning with the organizational meeting after the 1999 municipal election, the ~~Board of Commissioners of the Town of Calabash consists of four members.~~ governing body of the Town of Calabash shall consist of the Town Board of Commissioners and the Mayor. The Town Board of Commissioners has five members. The Commissioners and the Mayor shall be elected to four-year terms by the qualified voters of the entire Town. In 1999, the two persons receiving the highest number of votes are elected to four-year terms and the three persons receiving the next highest number of votes are elected to two-year terms. In 2001, and quadrennially thereafter, three persons are elected to four-year terms. In 2003, and quadrennially thereafter, two persons are elected to four-year terms."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of April, 1999.

Became law on the date it was ratified.

H.B. 50 **SESSION LAW 1999-17**

AN ACT TO AUTHORIZE THE CITY OF FAYETTEVILLE TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 216 of the 1997 Session Laws reads as rewritten:

"Section 2. This act applies to the ~~City~~ Cities of Charlotte and Fayetteville only."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of April, 1999.

Became law on the date it was ratified.

H.B. 153 **SESSION LAW 1999-18**

AN ACT TO CHANGE THE FILING PERIOD FOR THE HOKE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 707 of the 1973 Session Laws is amended by adding a new section to read:

"Section 2.1. Candidates shall file notice of candidacy not earlier than 12:00 noon on the first Monday in July (except that if that day is a holiday, then not earlier than 12:00 noon on the next day) and not later than 12:00 noon on the first Monday in August of the year of election."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of April, 1999.

Became law on the date it was ratified.

S.B. 270 **SESSION LAW 1999-19**

AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO PROVIDE FOR VOLUNTARY ANNEXATION OF PROPERTY SUBJECT TO PRESENT-USE VALUE APPRAISAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-31 is amended by adding new subsections to read:

"(e1) Notwithstanding subsection (e) of this section, an annexation becomes effective as to the property pursuant to subsection (e2) if an area described in the annexation petition and ordinance includes agricultural land, horticultural land, or forestland, that on the effective date of annexation is:

(1) Land that is being taxed at present-use value pursuant to G.S. 105-277.4; or

(2) Land that:

a. Was on the date of the filing of the petition for annexation being used for actual production and is eligible for present-use value taxation under G.S. 105-277.4, but the land has not been in use for actual production for the required time under G.S. 105-277.3; and

b. The assessor for the county where the land subject to annexation is located has certified to the city that the land meets the requirements of this subdivision.

(e2) Annexation of property subject to annexation under subsection (e1) of this section shall become effective as to each tract of such property or such part thereof on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to G.S. 105-227.4 and no longer meets the requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subsection, the tract or part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes, nor is the tract or part of the tract entitled to services provided by the city. When annexation becomes effective pursuant to this subsection as to a tract or part of a tract, the city shall provide all required services upon payment of city taxes.

(e3) The boundaries of the property prior to the effective date under subsection (e2) of this section shall be considered as primary corporate limits only (i) for the purpose of establishing city boundaries for additional annexations pursuant to this Article and (ii) for the exercise of city authority pursuant to Article 19 of this Chapter."

Section 2. This act applies to the Town of Huntersville only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of April, 1999.

Became law on the date it was ratified.

H.B. 238 **SESSION LAW 1999-20**

AN ACT TO REMOVE THE SUNSET FROM LAWS ENCOURAGING THE PURCHASE OF COMMODITIES AND SERVICES OFFERED BY BLIND AND BY SEVERELY DISABLED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 265 of the 1995 Session Laws reads as rewritten:

"Sec. 5. This act becomes effective January 1, 1996, and applies to contracts for which bids or offers are solicited on or after that ~~date, and expires January 1, 2000.~~ date."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of April, 1999.

Became law upon approval of the Governor at 5:55 p.m. on the 13th day of April, 1999.

S.B. 62 **SESSION LAW 1999-21**

AN ACT TO VALIDATE CERTAIN NOTARIAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 10A of the General Statutes is amended by adding a new section to read:

"*§ 10A-17. Certain notarial acts validated.*

(a) Any acknowledgment taken and any instrument notarized by a person whose notarial commission was revoked on or before January 30, 1997, is hereby validated.

(b) This section applies to notarial acts performed on or before August 1, 1998."

Section 2. G.S. 10A-16(d), as amended in S.L. 1998-228, reads as rewritten:

"(d) This section applies to notarial acts performed on or before ~~October 1, 1998.~~ February 28, 1999."

Section 3. This act is effective when it becomes law. This act does not affect pending litigation.

In the General Assembly read three times and ratified this the 1st day of April, 1999.

Became law upon approval of the Governor at 5:57 p.m. on the 13th day of April, 1999.

S.B. 289 **SESSION LAW 1999-22**

AN ACT TO NAME THE NORTH CAROLINA CHILDREN'S VISION SCREENING IMPROVEMENT PROGRAM IN HONOR OF KENNETH C. ROYALL, JR.

The General Assembly of North Carolina enacts:

Section 1. The North Carolina Children's Vision Screening Improvement Program of the Department of Health and Human Services is a program administered through Prevent Blindness North Carolina that trains and certifies vision screeners who assess children in North Carolina schools. This program is hereby designated the Kenneth C. Royall, Jr. Children's Vision Screening Improvement Program in recognition of Kenneth C. Royall, Jr.'s 32 years of leadership in Prevent Blindness North Carolina and his commitment to children's vision screening.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of April, 1999.

Became law upon approval of the Governor at 10:26 a.m. on the 15th day of April, 1999.

S.B. 197 **SESSION LAW 1999-23**

AN ACT TO MODIFY THE GENERAL STATUTES TO IMPLEMENT CERTAIN RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50B-3 reads as rewritten:

"*§ 50B-3. Relief.*

(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order or approve any consent agreement to bring about a cessation of acts of domestic violence. The orders or agreements may:

(1) Direct a party to refrain from such acts;
(2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household;
(3) Require a party to provide a spouse and his or her children suitable alternate housing;
(4) Award temporary custody of minor children and establish temporary visitation rights;
(5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it;
(6) Order either party to make payments for the support of a minor child as required by law;
(7) Order either party to make payments for the support of a spouse as required by law;
(8) Provide for possession of personal property of the parties;
(9) Order a party to refrain from doing any or all of the following:
a. Threatening, abusing, or following the other party,
b. Harassing the other party, including by telephone, visiting the home or workplace, or other means, or
c. Otherwise interfering with the other party;
(10) Award costs and attorney's fees to either party;
(11) Prohibit a party from purchasing a firearm for a time fixed in the order;
(12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is available within a reasonable distance of that party's residence and is approved by the Department of Administration; and
(13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.

(b) Protective orders entered or consent orders approved pursuant to this Chapter shall be for a fixed period of time not to exceed one year. Upon application of the aggrieved party, a judge may renew the original or any succeeding order for up to one additional year. Protective orders entered or consent orders approved shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides.

(d) The sheriff of the county where a domestic violence order is entered shall provide for ~~immediate~~ prompt entry of the order ~~onto the Division of Criminal Information Network~~ into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. ~~Modifications~~ Modifications, terminations, and dismissals of the order shall also be promptly entered."

Section 2. G.S. 50B-4 reads as rewritten:

"*§ 50B-4. Enforcement of orders.*

(a) A party may file a motion for contempt for violation of any order entered pursuant to this Chapter. ~~Said~~ This party may file and proceed with ~~such~~ that motion pro se, using forms provided by the clerk of superior court or a magistrate authorized under G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection, the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts of domestic violence against the aggrieved party or a minor child and the motion is made at a time when the clerk is not available, shall schedule and issue notice of a show cause hearing with the district court division of the General Court of Justice at the earliest possible date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice issued by the magistrate pursuant to this subsection, shall effect service of the motion, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served, upon payment of the required service fees.

~~(b) A law-enforcement officer shall arrest and take a person into custody without a warrant or other process if the officer has probable cause to believe that the person has violated a court order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9), and if the victim, or someone acting on the victim's behalf, presents the law-enforcement officer with a copy of the order or the officer determines that such an order exists, and can ascertain the contents thereof, through phone, radio or other communication with appropriate authorities. Nothing in this section shall prohibit a law-enforcement officer from securing a warrant for the arrest of a person who is subject to warrantless arrest. The person arrested shall be brought before the appropriate district court judge at the earliest time possible to show cause why he or she should not be held in civil or criminal contempt for violation of the order. The person arrested shall be entitled to be released under the provisions of Article 26, Bail, of Chapter 15A of the General Statutes.~~

(c) ~~Valid~~ A valid protective ~~orders~~ order entered pursuant to this section shall be enforced by all North Carolina ~~law-enforcement~~ law enforcement agencies without further order of the court.

(d) ~~Valid~~ A valid protective ~~orders~~ order entered by the courts of another state or the courts of an Indian tribe shall be accorded full faith and credit by the courts of North Carolina whether or not the order has been registered and shall be enforced by the courts and the ~~law-enforcement~~ law enforcement agencies of North ~~Carolina.~~ Carolina as if it were an order issued by a North Carolina court. In determining the validity of an out-of-state order for purposes of enforcement, a law enforcement officer may rely upon a copy of the protective order issued by another state or the courts of

an Indian tribe that is provided to the officer and on the statement of a person protected by the order that the order remains in effect. Even though registration is not required, a copy of a protective order may be registered in North Carolina by filing with the clerk of superior court in any county a copy of the order and an affidavit by a person protected by the order that to the best of that person's knowledge the order is presently in effect as written. Notice of the registration shall not be given to the defendant. Upon registration of the order, the clerk shall promptly forward a copy to the sheriff of that county. Unless the issuing state has already entered the order, the sheriff shall provide for prompt entry of the order into the National Crime Information Center registry pursuant to G.S. 50B-3(d).

(e) Upon application or motion by a party to the court, the court shall determine whether an out-of-state order remains in full force and effect."

Section 2.1. G.S. 50B-4 reads as rewritten:

"*§ 50B-4. Enforcement of orders.*

(a) A party may file a motion for contempt for violation of any order entered pursuant to this Chapter. ~~Said~~ This party may file and proceed with ~~such~~ that motion pro se, using forms provided by the clerk of superior court or a magistrate authorized under G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection, the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts of domestic violence against the aggrieved party or a minor child and the motion is made at a time when the clerk is not available, shall schedule and issue notice of a show cause hearing with the district court division of the General Court of Justice at the earliest possible date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice issued by the magistrate pursuant to this subsection, shall effect service of the motion, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served, upon payment of the required service fees.

~~(b) A law-enforcement officer shall arrest and take a person into custody without a warrant or other process if the officer has probable cause to believe that the person has violated a court order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9), and if the victim, or someone acting on the victim's behalf, presents the law-enforcement officer with a copy of the order or the officer determines that such an order exists, and can ascertain the contents thereof, through phone, radio or other communication with appropriate authorities. Nothing in this section shall prohibit a law-enforcement officer from securing a warrant for the arrest of a person who is subject to warrantless arrest. The person arrested shall be brought before the appropriate district court judge at the earliest time possible to show cause why he or she should not be held in civil or criminal contempt for violation of the order. The person arrested shall be entitled to be released under the provisions of Article 26, Bail, of Chapter 15A of the General Statutes.~~

(c) ~~Valid~~ A valid protective ~~orders~~ order entered pursuant to this section shall be enforced by all North Carolina ~~law-enforcement~~ law enforcement agencies without further order of the court.

(d) ~~Valid~~ A valid protective ~~orders~~ order entered by the courts of another state or the courts of an Indian tribe shall be accorded full faith and credit by the courts of North Carolina whether or not the order has been registered and shall be enforced by the courts and the ~~law enforcement~~ law enforcement agencies of North ~~Carolina.~~ Carolina as if it were an order issued by a North Carolina court. In determining the validity of an out-of-state order for purposes of enforcement, a law enforcement officer may rely upon a copy of the protective order issued by another state or the courts of an Indian tribe that is provided to the officer and on the statement of a person protected by the order that the order remains in effect. Even though registration is not required, a copy of a protective order may be registered in North Carolina by filing with the clerk of superior court in any county a copy of the order and an affidavit by a person protected by the order that to the best of that person's knowledge the order is presently in effect as written. Notice of the registration shall not be given to the defendant. Upon registration of the order, the clerk shall forward a copy to the sheriff of that county for entry into the Division of Criminal Information Network pursuant to G.S. 50B-3(d).

(e) Upon application or motion by a party to the court, the court shall determine whether an out-of-state order remains in full force and effect."

Section 3. G.S. 1C-1702 reads as rewritten:

"§ *1C-1702. Definitions.*

As used in this Article, unless the context requires otherwise:

(1) "Foreign Judgment" means any judgment, decree, or order of a court of the United States or a court of any other state which is entitled to full faith and credit in this State, except a ~~"support~~ "child support order," as defined in ~~G.S. 52A-3(14) (The Uniform Reciprocal Enforcement of Support Act) or~~ G.S. 52C-1-101 (The Uniform Interstate Family Support Act), a "custody decree," as defined in G.S. 50A-2(4) (The Uniform Child Custody Jurisdiction ~~Act).~~ Act), or a domestic violence protective order as provided in G.S. 50B-4(d).

(2) "Judgment Debtor" means the party against whom a foreign judgment has been rendered.

(3) "Judgment Creditor" means the party in whose favor a foreign judgment has been rendered."

Section 4. G.S. 50B-4.1 reads as rewritten:

"§ *50B-4.1. Violation of valid protective order a misdemeanor.*

(a) A person who knowingly violates a valid protective order entered pursuant to this Chapter or by the courts of another state or the courts of an Indian tribe shall be guilty of a Class A1 misdemeanor.

(b) A law enforcement officer shall arrest and take a person into custody without a warrant or other process if the officer has probable cause to believe that the person knowingly has violated a valid protective order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9).

(c) When a law enforcement officer makes an arrest under this section without a warrant, and the party arrested contests that the out-of-state order

or the order issued by an Indian court remains in full force and effect, the party arrested shall be promptly provided with a copy of the information applicable to the party which appears on the National Crime Information Center registry by the sheriff of the county in which the arrest occurs."

Section 5. Chapter 50B of the General Statutes is amended by adding a new section to read:

"*§ 50B-4.2. False statement regarding protective order a misdemeanor.*

A person who knowingly makes a false statement to a law enforcement agency or officer that a protective order entered pursuant to this Chapter or by the courts of another state or Indian tribe remains in effect shall be guilty of a Class 2 misdemeanor."

Section 6. G.S. 50B-5(a) reads as rewritten:

"(a) A person who alleges that he or she or a minor child has been the victim of domestic violence may request the assistance of a local ~~law-enforcement~~ law enforcement agency. The local ~~law-enforcement~~ law enforcement agency shall respond to the request for assistance as soon as ~~practicable; provided, however, a local law-enforcement agency shall not be required to respond in instances of multiple complaints from the same complainant if the multiple complaints are made within a 48-hour period and the local law-enforcement agency has reasonable cause to believe that immediate assistance is not needed.~~ practicable. The local ~~law-enforcement~~ law enforcement officer responding to the request for assistance ~~is authorized to~~ may take whatever steps are reasonably necessary to protect the complainant from harm and ~~is authorized to~~ may advise the complainant of sources of shelter, medical care, counseling and other services. Upon request by the complainant and where feasible, the ~~law-enforcement~~ law enforcement officer ~~is authorized to~~ may transport the complainant to appropriate facilities such as hospitals, magistrates' offices, or public or private facilities for shelter and accompany the complainant to his or her residence, within the jurisdiction in which the request for assistance was made, so that the complainant may remove food, clothing, medication and such other personal property as is reasonably necessary to enable the complainant and any minor children who are presently in the care of the complainant to remain elsewhere pending further proceedings."

Section 7. G.S. 15A-401(b) reads as rewritten:

"(b) Arrest by Officer Without a Warrant. --

(1) Offense in Presence of Officer. -- An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.

(2) Offense Out of Presence of Officer. -- An officer may arrest without a warrant any person who the officer has probable cause to believe:

a. Has committed a felony; or

b. Has committed a misdemeanor, and:

1. Will not be apprehended unless immediately arrested, or

2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or

c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or

d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), ~~or 14-33(c)(2)~~ 14-33(c)(2), or 14-34 when the offense was committed by a person ~~who is the spouse or former spouse of the alleged victim or by a person with whom the alleged victim is living or has lived as if married.~~ with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or

e. Has committed a misdemeanor under G.S. 50B-4.1(a).

(3) Repealed by Session Laws 1991, c. 150."

Section 8. Sections 1 and 2 of this act become effective February 1, 2000, only if funds are received by federal grant to implement those sections. Section 2.1 of this act becomes effective February 1, 2000, only if funds are not received by federal grant to implement Sections 1 and 2 of this act. The remainder of this act becomes effective December 1, 1999.

In the General Assembly read three times and ratified this the 7th day of April, 1999.

Became law upon approval of the Governor at 11:05 a.m. on the 15th day of April, 1999.

S.B. 269 **SESSION LAW 1999-24**

AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation is located entirely within the same county as the annexing municipality and in an area that another city in that county has: (i) agreed not to annex, or (ii) has given the annexing city the right of annexation under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements, then this subdivision shall not apply.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation under this Part is either: (i) in an area that another city has agreed not to annex under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements and the territory to be annexed is within the same county as the annexing city is located, or (ii) the closer city is located entirely within another county than the area being annexed, then the

proximity to that other city shall not be considered in applying this subdivision.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision which is located within the same county as the annexing municipality must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city."

Section 2. This act applies to the Town of Huntersville only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of April, 1999.

Became law on the date it was ratified.

S.B. 51 **SESSION LAW 1999-25**

AN ACT TO AMEND THE LAW GOVERNING HIGHWAY SMALL PROJECT BIDDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.10(a) reads as rewritten:

"(a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway Trust Fund projects of ~~three hundred thousand dollars ($300,000)~~ five hundred thousand dollars ($500,000) or less, the Board of Transportation may, after soliciting at least three informal bids in writing from Small Business Enterprises, award contracts to the lowest responsible bidder. The Department of Transportation may identify projects likely to attract increased participation by Small Business Enterprises, and restrict the solicitation and award to those bidders. The Board of Transportation may delegate full authority to award contracts, adopt necessary rules, and administer the provisions of this section to the Secretary of Transportation."

Section 2. G.S. 136-28.1(a) reads as rewritten:

"(a) All contracts over ~~five~~ eight hundred thousand dollars ~~($500,000)~~ ($800,000) that the Department of Transportation may let for construction or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.131(a) for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. The Department of Transportation shall use only the contract provisions provided in the North Carolina

Department of Transportation, Standard Specifications for Roads and Structures, January 1, 1984, except as each may be changed or provided for by rule adopted by the Board of Transportation in accordance with the Administrative Procedure Act."

Section 3. G.S. 136-28.1(b) reads as rewritten:

"(b) In those cases in which the amount of work to be let to contract for highway construction, maintenance, or repair is ~~five~~ eight hundred thousand dollars ~~($500,000)~~ ($800,000) or less, at least three informal bids shall be solicited. The term 'informal bids' is defined as bids in writing, received pursuant to a written request, without public advertising. All such contracts shall be awarded to the lowest responsible bidder. The Secretary of Transportation shall keep a record of all bids submitted, which record shall be subject to public inspection at any time after the bids are opened."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of April, 1999.

Became law upon approval of the Governor at 9:20 a.m. on the 16th day of April, 1999.

S.B. 76 **SESSION LAW 1999-26**

AN ACT TO REQUIRE THE DIVISION OF CRIMINAL STATISTICS TO COLLECT AND MAINTAIN STATISTICS ON TRAFFIC LAW ENFORCEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 114-10 reads as rewritten:

"§ *114-10. Division of Criminal Statistics.*

The Attorney General shall set up in the Department of Justice a division to be designated as the Division of Criminal Statistics. There shall be assigned to this Division by the Attorney General duties as follows:

(1) To collect and correlate information in criminal law administration, including crimes committed, arrests made, dispositions on preliminary hearings, prosecutions, convictions, acquittals, punishment, appeals, together with the age, race, and sex of the offender, and such other information concerning crime and criminals as may appear significant or helpful. To correlate such information with the operations of agencies and institutions charged with the supervision of offenders on probation, in penal and correctional institutions, on parole and pardon, so as to show the volume, variety and tendencies of crime and criminals and the workings of successive links in the machinery set up for the administration of the criminal law in connection with the arrests, trial, punishment, probation, prison parole and pardon of all criminals in North Carolina.

(2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers'

licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the Division may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.

(2a) To collect, correlate, and maintain the following information regarding traffic law enforcement by State law enforcement officers:

a. The number of drivers stopped for routine traffic enforcement by State law enforcement officers and whether or not a citation or warning was issued;
b. Identifying characteristics of the drivers stopped, including the race or ethnicity, approximate age, and gender;
c. The alleged traffic violation that led to the stop;
d. Whether a search was instituted as a result of the stop;
e. Whether the vehicle, personal effects, driver, or passenger or passengers were searched, and the race or ethnicity, approximate age, and gender of each person searched;
f. Whether the search was conducted pursuant to consent, probable cause, or reasonable suspicion to suspect a crime, including the basis for the request for consent, or the circumstances establishing probable cause or reasonable suspicion;
g. Whether any contraband was found and the type and amount of any such contraband;
h. Whether any written citation or any oral or written warning was issued as a result of the stop;
i. Whether an arrest was made as a result of either the stop or the search;
j. Whether any property was seized, with a description of that property;
k. Whether the officers making the stop encountered any physical resistance from the driver or passenger or passengers;
l. Whether the officers making the stop engaged in the use of force against the driver, passenger, or passengers for any reason;
m. Whether any injuries resulted from the stop; and
n. Whether the circumstances surrounding the stop were the subject of any investigation, and the results of that investigation.

The information required by this subdivision need not be collected in connection with impaired driving checks under G.S. 20-16.3A or other types of roadblocks, vehicle checks, or

checkpoints that are consistent with the laws of this State and with the State and federal constitutions, except when those stops result in a warning, search, seizure, arrest, or any of the other activity described in sub-subdivisions d. through n. of this subdivision.

(3) To make scientific study, analysis and comparison from the information so collected and correlated with similar information gathered by federal agencies, and to provide the Governor and the General Assembly with the information so collected biennially, or more often if required by the Governor.

(4) To perform all the duties heretofore imposed by law upon the Attorney General with respect to criminal statistics.

(5) To perform such other duties as may be from time to time prescribed by the Attorney General.

(6) To promulgate rules and regulations for the administration of this Article."

Section 2. This act shall not be construed to obligate the General Assembly to make any appropriation to implement the provisions of this act. Each department and agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated to that department or agency.

Section 3. This act becomes effective January 1, 2000, and applies to law enforcement actions occurring on or after that date.

In the General Assembly read three times and ratified this the 14th day of April, 1999.

Became law upon approval of the Governor at 9:35 a.m. on the 22nd day of April, 1999.

H.B. 216 **SESSION LAW 1999-27**

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO DIRECT THE STATE BOARD OF EDUCATION TO EXTEND ITS REVIEW AND EVALUATION OF CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-238.29I(c) reads as rewritten:

"(c) The State Board of Education shall review and evaluate the educational effectiveness of the charter school approach authorized under this Part and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report no later than January 1, 2002, to the Joint Legislative Education Oversight Committee with recommendations to modify, expand, or terminate that approach. The Board shall base its recommendations predominantly on the following information:

(1) The current and projected impact of charter schools on the delivery of services by the public schools.

(2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation.

(3) Best practices resulting from charter school operations.
(4) Other information the State Board considers appropriate."

Section 2. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 12th day of April, 1999.

Became law upon approval of the Governor at 2:13 p.m. on the 22nd day of April, 1999.

H.B. 56 **SESSION LAW 1999-28**

AN ACT TO ELIMINATE THE USE OF STAMPS TO INDICATE WHETHER THE EXCISE TAX ON CONVEYANCES HAS BEEN PAID AND TO MAKE THE PENALTIES THAT APPLY TO THIS TAX THE SAME AS FOR OTHER TAXES.

The General Assembly of North Carolina enacts:

Section 1. Article 8E of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 8E.

"Excise ~~Stamp~~ Tax on Conveyances.

"§ *105-228.28. ~~To whom this Article shall apply.~~ Scope.*

~~The provisions of this Article shall apply to every person, firm, corporation, association, society or organization~~ This Article applies to every person conveying an interest in real estate located in North Carolina other than a governmental unit ~~and instrumentalities thereof.~~ or an instrumentality of a governmental unit.

"§ *105-228.29. ~~Conveyances excluded.~~ Exemptions.*

~~The provisions of this Article shall not apply to transfers of an interest in real estate by operation of law, by lease for a term of years, by or pursuant to the provisions of a will, by intestacy, by gift, by merger or consolidation, or by instruments securing indebtedness, or any other transfer where no consideration in property or money is due or paid by the transferee to transferor.~~ This Article does not apply to any of the following transfers of an interest in real property:

(1) By operation of law.
(2) By lease for a term of years.
(3) By or pursuant to the provisions of a will.
(4) By intestacy.
(5) By gift.
(6) If no consideration in property or money is due or paid by the transferee to the transferor.
(7) By merger or consolidation.
(8) By an instrument securing indebtedness.

"§ *105-228.30. Imposition of excise ~~stamp tax.~~ tax; distribution of proceeds.*

(a) ~~There is levied an~~ An excise tax is levied on each ~~deed, instrument, or writing~~ instrument by which any interest in real property is conveyed to another person. The tax ~~shall be at the rate of~~ rate is one dollar ($1.00) on each five hundred dollars ($500.00) or fractional part thereof of the consideration or value of the interest ~~or property~~ conveyed. The ~~tax shall be~~

~~paid by the~~ transferor must pay the tax to the register of deeds of the county in which the real estate is ~~situated prior to~~ located before recording the instrument of ~~conveyance; provided that, if~~ conveyance. If the instrument transfers ~~any~~ a parcel of real estate lying in two or more counties, ~~the tax shall~~ however, the tax must be paid to the register of deeds of the county ~~wherein~~ in which the greater part of the real estate with respect to value lies.

(b) The register of deeds of each county ~~shall~~ must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county ~~shall~~ must credit one-half of the proceeds to the county's general fund and ~~shall~~ remit the remaining one-half of the proceeds, less the county's allowance for administrative expenses, to the Department of Revenue on a quarterly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue ~~shall~~ must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.

"~~§ 105-228.31. Issuance of tax stamp.~~

~~The Secretary of Revenue shall furnish to the register of deeds of each county tax stamps to be issued upon payment of the tax herein imposed. Counties shall pay to the Secretary a reasonable charge therefor to cover the cost of printing and handling same. Such tax stamps shall be uniform as to size and design and shall be in such form as determined by the Secretary of Revenue and shall be valid until cancelled as hereinafter provided for.~~

~~The register of deeds of any county is authorized to affix stamps by meter or other similar device in accordance with procedures established by the Secretary of Revenue. Stamps affixed by such devices shall be uniform as to size and design and shall be in such form as determined by the Secretary and cancellation as provided by this Article is not required.~~

"§ *105-228.32.* ~~*Duties of register of deeds; duty of party presenting instrument for registration.*~~ *Instrument must be marked to reflect tax paid.*

~~The register of deeds of each county shall obtain from the Secretary of Revenue and keep on hand an adequate supply of excise tax stamps. The register of deeds shall keep such records and otherwise account for said stamps in accordance with procedures established by the Secretary of Revenue for the control, distribution and sale of said stamps and for the accounting for proceeds of their sale consistent with this Article. It is the duty of the party presenting the instrument for registration to see that the correct amount of stamps is affixed to the face thereof prior to recording the same in the office of the register of deeds. The register of deeds shall cancel said stamp or stamps prior to recording by writing the date of filing on the face of said stamp or stamps.~~ A person who presents an instrument for registration must report to the Register of Deeds the amount of tax due. Before the instrument may be recorded, the Register of Deeds must collect the tax due and mark the instrument to indicate that the tax has been paid and the amount of the tax paid.

"§ *105-228.33. Taxes recoverable by action.*

~~Upon the failure to pay the taxes imposed by this Article, they may be recovered~~ A county may recover unpaid taxes under this Article in an action in the name of the county brought in the superior court of ~~said county when the same remain unpaid for a period of 30 days after demand has been made by the register of deeds on behalf of the county therefor.~~ the county. The action may be filed if the taxes remain unpaid more than 30 days after the register of deeds has demanded payment. In such actions, costs of court shall include a fee to the county of twenty-five dollars ($25.00) for expense of collection.

~~"§ 105-228.34. Willful failure to pay tax.~~

~~Any transferor or agent of transferor of real estate willfully and knowingly failing to pay the correct amount of the tax imposed by this Article or any person aiding, abetting, or directing any other person to willfully and knowingly fail to pay the correct amount of such tax shall be guilty of a Class 3 misdemeanor and only fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense. When the register of deeds relies on the statement of the party presenting the instrument for registration as to the correct amount of stamps to be affixed, he shall not be subject to prosecution as an aider or abettor under this section.~~

"§ *105-228.35. Administrative provisions.*

The provisions of ~~Subchapter III, Article 30 of Chapter 105 of the General Statutes of North Carolina to the extent applicable shall apply to the tax imposed herein.~~ Article 9 of this Chapter apply to this Article.

~~"§ 105-228.36. Reproduction of tax stamps.~~

~~No person, firm, or corporation shall print, engrave, or otherwise reproduce excise tax stamps except with the express permission of the Secretary of Revenue. The unauthorized reproduction of said stamps shall be punishable as a forgery under G.S. 14-119.~~"

Section 2. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

Section 3. Section 1 of this act becomes effective July 1, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of April, 1999.

Became law upon approval of the Governor at 2:15 p.m. on the 22nd day of April, 1999.

S.B. 27 **SESSION LAW 1999-29**

AN ACT TO REPEAL THE PROHIBITION AGAINST THE DEPARTMENT OF TRANSPORTATION USING BERMUDA GRASS ALONG CERTAIN ROADS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18.1 is repealed.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of April, 1999.

Became law upon approval of the Governor at 2:17 p.m. on the 22nd day of April, 1999.

S.B. 225 **SESSION LAW 1999-30**

AN ACT TO AMEND THE LAW REGARDING CERTIFICATION AND EMPLOYMENT OF ASSISTANT PRINCIPALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-284(c) reads as rewritten:

"(c) The State Board of Education shall have entire control of certifying all applicants for supervisory and professional positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates, and shall determine and fix the salary for each grade and type of certificate which it authorizes. The State Board of Education shall require each applicant for an initial certificate or graduate certificate, other than an applicant who is qualified under Article 19A of this Chapter, to demonstrate ~~his~~ the applicant's academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose. If the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972. The Board may not require an applicant who is qualified under Article 19A of this Chapter to take an additional exam to demonstrate academic competence. The Board shall not issue provisional certificates for ~~principals and assistant principals.~~ principals.

The Board shall issue a one-year provisional assistant principal's certificate to an employee of a local board only if (i) the local board determines there is a shortage of persons who hold or are qualified to hold a principal's certificate, and (ii) the employee enrolls in an approved program leading to a masters degree in school administration before the provisional certificate expires. The Board shall extend the provisional certificate for a total of no more than two additional years while the employee is completing the program."

Section 2. G.S. 115C-289(b) reads as rewritten:

"(b) All persons employed as assistant principals in State-allotted positions, or as assistant principals in full-time positions regardless of funding source, in the public schools of the State or in schools receiving public funds, shall, in addition to other applicable requirements, be required either to hold or be qualified to hold a principal's certificate or a provisional assistant principal's certificate in compliance with applicable law and in accordance with the regulations of the State Board of Education. It shall be unlawful for any board of education to employ or keep in service any assistant principal who neither holds nor is qualified to hold a principal's certificate or a provisional assistant principal's certificate in compliance with

applicable law and in accordance with the regulations of the State Board of Education. Persons who hold a provisional assistant principal's certificate and who are employed as assistant principals shall be employed under G.S. 115C-287.1(h)."

Section 3. G.S. 115C-287.1 is amended by adding a new subsection to read:

"(h) An individual who holds a provisional assistant principal's certificate and who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school administrator for purposes of this section. Notwithstanding subsection (b) of this section, a local board may enter into one-year contracts with a school administrator who holds a provisional assistant principal's certificate. If the school administrator held career status as a teacher in the local school administrative unit prior to being employed as an assistant principal and the State Board for any reason does not extend the school administrator's provisional assistant principal's certificate, the school administrator shall retain career status as a teacher unless the school administrator voluntarily relinquished that right or is dismissed or demoted under G.S. 115C-325. Nothing in this subsection or G.S. 115C-284(c) shall be construed to require a local board to extend or renew the contract of a school administrator who holds a provisional assistant principal's certificate."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of April, 1999.

Became law upon approval of the Governor at 5:55 a.m. on the 27th day of April, 1999.

H.B. 921 **SESSION LAW 1999-31**

AN ACT TO REWRITE THE DEFINITIONS OF "POLITICAL COMMITTEE," "CONTRIBUTION," "EXPENDITURE," AND "CANDIDATE"; TO ADD A DEFINITION OF "INDEPENDENT EXPENDITURE"; TO REMOVE THE TERM "POLITICAL PURPOSE"; TO NARROW THE PROHIBITION ON CORPORATE AND OTHER POLITICAL EXPENDITURES TO CONSTITUTIONAL BOUNDS; TO MERGE THE FIRST QUARTERLY REPORT WITH THE PRE-PRIMARY REPORT; TO AMEND THE STATUTES WITH REGARD TO REPORTING CONTRIBUTIONS AND EXPENDITURES; AND TO MAKE OTHER CHANGES RELATED TO REPAIRING THE CAMPAIGN STATUTES AFTER THE DECISION OF THE FOURTH U.S. CIRCUIT COURT OF APPEALS IN NORTH CAROLINA RIGHT TO LIFE, INC., V. BARTLETT.

The General Assembly of North Carolina enacts:

-- REDEFINING "POLITICAL COMMITTEE" AND RELATED CHANGES.

Section 1.(a) G.S. 163-278.6(14) reads as rewritten:

"(14) The term 'political committee' means a combination of two or more individuals, or any person, committee, association, ~~or~~

organization, ~~the primary or incidental purpose of which is to support or oppose any candidate or political party or to influence or attempt to influence the result of an election or which accepts contributions or makes~~ or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:

a. Is controlled by a candidate;

b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;

c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or

d. Has as a major purpose ~~expenditures for the purpose of influencing or attempting to influence~~ to support or oppose the nomination or election of ~~any candidate at any election, or which~~ one or more clearly identified candidates.

Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

An entity is rebuttably presumed to have as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates if it contributes or expends or both contributes and expends during an election cycle more than three thousand dollars ($3,000). Contributions to referendum committees and expenditures to support or oppose ballot issues shall not be facts considered to give rise to the presumption or otherwise be used in determining whether an entity is a political committee.

If the entity qualifies as a 'political committee' under sub-subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions ~~to repay loans or cover a deficit,~~ or ~~which~~ makes expenditures ~~to satisfy obligations of an election already held. The term includes, without limitation, any political party's State, county or district executive committee.~~ or maintains assets or liabilities. A political committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report."

Section 1.(b) G.S. 163-278.6 is amended by adding a new subdivision to read:

"(7c) The term 'election cycle' means the period of time from January 1 after an election for an office through December 31 after the election for the next term of the same office. Where the term is applied in the context of several offices with different terms, 'election cycle' means the period from January 1 of an odd-numbered year through December 31 of the next even-numbered year."

Section 1.(c) Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ *163-278.34A. Presumptions.*

In any proceeding brought pursuant to this Article in which a presumption arises from the proof of certain facts, the defendant has the burden of offering some evidence to rebut the presumption. The State bears the ultimate burden of proving the essential elements of its case."

Section 1.(d) G.S. 163-278.16(a) reads as rewritten:

"(a) Except as provided in G.S. 163-278.6(14) and G.S. 163-278.12, no contribution may be received or expenditure made by or on behalf of a candidate, political committee, or referendum committee:

(1) Until the candidate, political committee, or referendum committee appoints a treasurer and certifies the name and address of the treasurer to the Board; and

(2) Unless the contribution is received or the expenditure made by or through the treasurer of the candidate, political committee, or referendum committee."

-- REDEFINING "CONTRIBUTION" AND "EXPENDITURE"; DEFINING "INDEPENDENT EXPENDITURE"; AND CHANGING THE SPECIAL REPORTING REQUIREMENT FOR CONTRIBUTIONS AND INDEPENDENT EXPENDITURES.

Section 2.(a) G.S. 163-278.6(6) reads as rewritten:

"(6) The terms 'contribute' or 'contribution' mean any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, to a candidate to support or oppose the nomination or election of one or more clearly identified candidates, to a political committee, to a political party, or to a referendum committee, ~~from any person or individual,~~ whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a ~~contribution, in support of or in opposition to any candidate, political committee, referendum committee, or political party.~~ contribution. These terms include, without limitation, such contributions as labor or personal services, postage, publication of campaign literature or materials, in-kind transfers, loans or use of any supplies, office machinery, vehicles, aircraft, office space, or similar or related services, goods, or personal or real property. These terms also include, without limitation, the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or ~~goods notwithstanding~~ goods. Notwithstanding the foregoing meanings of 'contribution,' the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or referendum committee. The term 'contribution' does not include an 'independent expenditure.'"

Section 2.(b) G.S. 163-278.6(9) reads as rewritten:

"(9) The terms 'expend' or 'expenditure' mean any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, ~~from any person or individual,~~ whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make an expenditure, ~~in support of or in opposition to~~ to support or oppose the nomination, election, or passage of ~~any candidate, political committee, referendum committee, or political party.~~ one or more clearly identified candidates, or ballot measure. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. The term 'expenditure' also includes any payment or other transfer made by a candidate, political committee, or referendum committee. The special definition of 'expenditure' in G.S. 163-278.12A applies only in that section."

Section 2.(c) G.S. 163-278.6 is amended by adding a new subdivision to read:

"(9a) The term 'independently expend' or 'independent expenditure' means an expenditure to support or oppose the nomination or election of one or more clearly identified candidates that is made without consultation or coordination with a candidate or agent of a candidate whose nomination or election the expenditure supports or whose opponent's nomination or election the expenditure opposes. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. A contribution is not an independent expenditure. As applied to referenda, the term 'independent expenditure' applies if consultation or coordination does not take place with a referendum committee that supports a ballot measure the expenditure supports, or a referendum committee that opposes the ballot measure the expenditure opposes."

Section 2.(d) G.S. 163-278.12 reads as rewritten:

"§ *163-278.12.* ~~*Contributions and expenditures by an individual other than a candidate.*~~ *Special reporting of contributions and independent expenditures.*

(a) Subject to G.S. 163-278.16(f) and 163-278.14, ~~it shall be permissible for an individual other than a candidate to~~ individuals and other entities not otherwise prohibited from doing so may make ~~contributions or expenditures in support of, or in opposition to, any candidate, political committee, or referendum committee other than by contribution to a candidate, political committee, or referendum committee.~~ independent expenditures. In the event an individual or other entity making independent expenditures but not otherwise required to report them makes ~~contributions or expenditures, other than by contribution to a candidate, political committee, or referendum committee,~~ independent expenditures in excess of one hundred dollars ($100.00), ~~then, within 10 days after making such a contribution or expenditure, he~~ that individual or entity shall file a statement of such

~~contribution or~~ independent expenditure with the ~~Board in accordance with the terms and conditions of G.S. 163-278.11.~~ appropriate board of elections in the manner prescribed by the State Board of Elections.

(b) Any entity other than an individual that is permitted to make contributions but is not otherwise required to report them shall report each contribution in excess of one hundred dollars ($100.00) with the appropriate board of elections in the manner prescribed by the State Board of Elections.

(c) In assuring compliance with subsections (a) and (b) of this section, the State Board of Elections shall require the identification of each entity making a donation of more than one hundred dollars ($100.00) to the entity filing the report if the donation was made for the purpose of furthering the reported independent expenditure or contribution.

(d) Contributions or expenditures required to be reported under this section shall be reported within 30 days after they exceed one hundred dollars ($100.00) or 10 days before an election the contributions or expenditures affect, whichever occurs earlier."

-- REDEFINING THE TERM "CANDIDATE".

Section 3. G.S. 163-278.6(4) reads as rewritten:

"(4) The term 'candidate' means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition requesting to be a candidate, or has been certified as a nominee of a political party for a vacancy, ~~or~~ has otherwise qualified as a candidate in a manner authorized by ~~law.~~ law, or has received funds or made payments or has given the consent for anyone else to receive funds or transfer anything of value for the purpose of exploring or bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value. Status as a candidate for the purpose of this Article continues if the individual is receiving contributions to repay loans or cover a deficit or is making expenditures to satisfy obligations from an election already held."

-- REMOVING THE TERM "POLITICAL PURPOSE".

Section 4.(a) G.S. 163-278.6(16) is repealed.

Section 4.(b) G.S. 163-278.16(g) reads as rewritten:

"(g) All printed matter ~~for a political purpose~~ from a political party or political committee which ~~identifies a candidate that party or committee is opposing~~ opposes the nomination or election of a clearly identified candidate shall indicate in type no smaller than 12 point the name of the political party or political committee and the name of the candidate that is intended to benefit from the printed matter."

Section 4.(c) G.S. 163-278.36 reads as rewritten:

"§ *163-278.36. Elected officials to report funds.*

All ~~contributions~~ donations to, and all ~~expenditures~~ payments from any 'booster fund,' 'support fund,' 'unofficial office account' or any other similar source ~~which are~~ made ~~to, in behalf of,~~ or used in support of ~~any person holding~~ an individual's candidacy for elective office, or in support of an individual's duties and activities while in an elective office ~~for any political purpose whatsoever during his term of office~~ shall be deemed

contributions and expenditures as defined in this Article and shall be reported as contributions and expenditures as required by this Article. The ~~annual report~~ reports due in January and July of each year shall show the balance of each separate fund or account maintained on behalf of the elected office holder."

Section 4.(d) G.S. 163-278.19(a) reads as rewritten:

"(a) Except as provided in ~~G.S. 163-278.19(b),~~ subsections (b), (d), (e), and (f) of this section it shall be unlawful for any corporation, business entity, labor union, professional association or insurance company directly or indirectly:

(1) To make any contribution to a candidate or political committee ~~or expenditure~~ (except a loan of money by a national or State bank or federal or State savings and loan association made in accordance with the applicable banking or savings and loan association laws and regulations and in the ordinary course of business) ~~in aid or in behalf of or in opposition to any candidate or political committee in any election or for any political purpose whatsoever;~~ or to make any expenditure to support or oppose the nomination or election of a clearly identified candidate;

(2) To pay or use or offer, consent or agree to pay or use any of its money or property ~~for or in aid of or in opposition to any candidate or political committee or for or in aid of any person, organization or association organized or maintained for political purposes, or for or in aid of or in opposition to any candidate or political committee or for any political purpose whatsoever; and~~ for any contribution to a candidate or political committee or for any expenditure to support or oppose the nomination or election of a clearly identified candidate; or

(3) To ~~reimburse~~ compensate, reimburse, or indemnify any person or individual for money or property so used or for any contribution or expenditure so made;

and it shall be unlawful for any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company to aid, abet, advise or consent to any such contribution or expenditure, or for any person or individual to solicit or knowingly receive any such contribution or expenditure. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. Any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company aiding or abetting in any contribution or expenditure made in violation of this section shall be guilty of a Class 2 misdemeanor, and shall in addition be liable to such corporation, business entity, labor union, professional association or insurance company for the amount of such contribution or expenditure, and the same may be recovered of him upon suit by any stockholder or member thereof."

-- PERMITTING CONTRIBUTIONS AND INDEPENDENT EXPENDITURES BY NONBUSINESS CORPORATIONS; REMOVING REDUNDANT STATUTES CONCERNING CORPORATE AND

INSURANCE COMPANY CONTRIBUTIONS; AND MAKING CONFORMING CHANGES.

Section 5.(a) G.S. 163-278.19 is amended by adding a new subsection to read:

"(f) This section does not prohibit a contribution or independent expenditure by an entity that:

(1) Has as an express purpose promoting social, educational, or political ideas and not to generate business income;

(2) Does not have shareholders or other persons which have an economic interest in its assets and earnings; and

(3) Was not established by a business corporation, by an insurance company, by a business entity, including, but not limited to, those chartered under Chapter 55, Chapter 55A, Chapter 55B, or Chapter 58 of the General Statutes, by a professional association, or by a labor union and does not receive substantial revenue from such entities. Substantial revenue is rebuttably presumed to be more than ten percent (10%) of total revenues in a calendar year."

Section 5.(b) G.S. 163-269 and G.S. 163-270 are repealed.

Section 5.(c) G.S. 163-278.13 reads as rewritten:

"*§ 163-278.13. Limitation on contributions.*

(a) No ~~individual or political committee~~ individual, political committee, or other entity shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of four thousand dollars ($4,000) for that election.

(b) No candidate or political committee shall accept or solicit any contribution from any ~~individual or other political committee~~ individual, other political committee, or other entity of any money or any other contribution in any election in excess of four thousand dollars ($4,000) for that election.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to make a contribution to the candidate or to the candidate's treasurer of any amount of money or to make any other contribution in any election in excess of four thousand dollars ($4,000) for that election.

(d) For the purposes of this section, the term 'an election' means any primary, second primary, or general election in which the candidate or political committee may be involved, without regard to whether the candidate is opposed or unopposed in the election, except that where a candidate is not on the ballot in a second primary, that second primary is not 'an election' with respect to that candidate.

(e) This section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term 'political party' means only those political parties officially recognized under G.S. 163-96.

(e1) No referendum committee which received any contribution from a corporation, labor union, insurance company, business entity, or professional association may make any contribution to another referendum committee, to a candidate or to a political committee.

(f) Any individual, candidate, political committee, ~~or~~ referendum ~~committee who~~ committee, or other entity that violates the provisions of this section is guilty of a Class 2 misdemeanor."

Section 5.(d) G.S. 163-278.13B(a)(1) reads as rewritten:

"(1) 'Limited contributor' means a lobbyist registered pursuant to Article 9A of Chapter 120 of the General Statutes, that lobbyist's agent, that lobbyist's principal as defined in G.S. 120-47.1(7), or a political committee that employs or contracts with or whose parent entity employs or contracts with a lobbyist registered pursuant to Article 9A of Chapter 120 of the General Statutes."

Section 5.(e) G.S. 163-278.15 reads as rewritten:

"*§ 163-278.15. No acceptance of contributions made by corporations, foreign and domestic.*

No candidate, political committee, political party, or treasurer shall accept any contribution made by any corporation, foreign or domestic, regardless of whether such corporation does business in the State of North Carolina. This section does not apply with regard to entities permitted to make contributions by G.S. 163-278.19(f)."

-- CLARIFYING WHAT IS COVERED BY ARTICLE 22A AND WHAT IS ACTIVITY THAT CONSTITUTES INDIRECT CONTRIBUTIONS BY CORPORATIONS, ETC.

Section 6.(a) Part 1 of Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"*§ 163-278.5. Scope of Article; severability.*

The provisions of this Article apply to primaries and elections for North Carolina offices and do not apply to primaries and elections for federal offices or offices in other States. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision."

Section 6.(b) G.S. 163-278.19 is amended by adding a new subsection to read:

"(a1) A transfer of funds shall be deemed to have been a contribution or expenditure made indirectly if it is made to any committee or political party account, whether inside or outside this State, with the intent or purpose of being exchanged in whole or in part for any other funds to be contributed or expended in an election for North Carolina office or to offset any other funds contributed or expended in an election for North Carolina office."

-- MERGING THE FIRST QUARTER REPORT AND THE PRE-PRIMARY REPORT.

Section 7.(a) G.S. 163-278.9(a)(2) is repealed.

Section 7.(b) G.S. 163-278.9(a)(5a) reads as rewritten:

"(5a) Quarterly Reports. -- During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting a candidate, the treasurer shall file a report by mailing or otherwise delivering it to the

Board no later than seven working days after the end of each calendar quarter covering the prior calendar quarter, except ~~that the~~ that:

a. The report for the first quarter shall also cover the period in April through the seventeenth day before the primary, the first quarter report shall be due seven days after that date, and the second quarter report shall not include that period if a first quarter report was required to be filed; and

b. The report for the third quarter shall also cover the period in October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed."

Section 7.(c) This section becomes effective January 1, 2000, and applies to all reports due on or after that date.

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of April, 1999.

Became law upon approval of the Governor at 1:30 p.m. on the 4th day of May, 1999.

H.B. 652 **SESSION LAW 1999-32**

AN ACT TO MODIFY THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE ROANOKE ISLAND HISTORICAL ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-200 reads as rewritten:

"*§ 143-200. Members of board of directors; terms; appointment.*

The governing body of ~~said~~ the Association shall be a board of directors consisting of the Governor of the State, the Attorney ~~General~~ General, the Superintendent of Public Instruction, the Chair of the Dare County Board of Commissioners, and the Secretary of Cultural ~~Resources~~ Resources, or their designees, as ex officio members, and the following 21 members: J. Spencer Love, Greensboro; Miles Clark, Elizabeth City; Mrs. Richard J. Reynolds, Winston-Salem; D. Hiden Ramsey, Asheville; Mrs. Charles A. Cannon, Concord; Dr. Fred Hanes, Durham; Mrs. Frank P. Graham, Chapel Hill; Bishop Thomas C. Darst, Wilmington; W. Dorsey Pruden, Edenton; John A. Buchanan, Durham; William B. Rodman, Jr., Washington; J. Melville Broughton, Raleigh; Melvin R. Daniels, Manteo; Paul Green, Chapel Hill; Samuel Selden, Chapel Hill; R. Bruce Etheridge, Manteo; Theodore S. Meekins, Manteo; Roy L. Davis, Manteo; M. K. Fearing, Manteo; A. R. Newsome, Chapel Hill. The members of ~~said~~ the board of directors herein named other than the ex officio members, shall serve for a term of two years and until their successors are appointed. Appointments thereafter shall be made by the membership of the Association in regular annual meeting or special meeting called for such purpose. In the event the Association through its membership should fail to make such appointments, then the

appointments shall be made by the Governor of the State. If a vacancy occurs between annual meetings, the board of directors may fill the vacancy until the next annual meeting. All vacancies occurring on the board of directors not filled by the board of directors within 30 days of the vacancy shall be filled by the Governor of the State."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of April, 1999.

Became law upon approval of the Governor at 9:15 a.m. on the 7th day of May, 1999.

S.B. 273 **SESSION LAW 1999-33**

AN ACT TO REQUIRE ALL FACILITIES AND PROVIDERS THAT DETECT, DIAGNOSE, OR TREAT CANCER PATIENTS TO REPORT CANCER CASES TO THE CANCER CONTROL REGISTRY.

Whereas, cancel control programs and existing statewide population-based cancer registries throughout the country have identified cancer incidence and cancer mortality rates that indicate that the burden of cancer for Americans is substantial and varies widely by geographic location and ethnicity; and

Whereas, statewide cancer incidence and cancer mortality data can be used to identify cancer trends, patterns, and variation for directing cancer control intervention: and

Whereas, since 1947 North Carolina has mandated that physicians report cancer diagnoses in their patients; and

Whereas, changes in communications and medical technology and in the treatment of disease mean that a substantial majority of the data is obtainable from medical facilities such as hospitals, clinics, and laboratories; and

Whereas, current North Carolina law authorizes but does not require facilities that diagnose or treat cancer patients to report clinical, statistical, and other records of cancer; and

Whereas, the current cancer incidence reporting rate in North Carolina is only 87%. This reporting rate is neither compliant with federal standards of 95% nor compliant with Cancer Registry standards of 100%; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-209 reads as rewritten:

"*§ 130A-209. Incidence reporting of ~~cancer.~~ cancer; charge for collection if failure to report.*

(a) ~~A physician~~ All health care facilities and health care providers that detect, diagnose, or treat cancer shall report to the central cancer registry each diagnosis of cancer in any person who is screened, diagnosed, or treated by the facility or provider. ~~for whom the physician is professionally consulted.~~ The reports shall be made within ~~60 days~~ six months of

diagnosis. Diagnostic, demographic and other information as prescribed by the rules of the Commission shall be included in the report.

(b) If a health care facility or health care provider fails to report as required under this section, then the central cancer registry may conduct a site visit to the facility or provider or be provided access to the information from the facility or provider and report it in the appropriate format. The Commission may adopt rules requiring that the facility or provider reimburse the registry for its cost to access and report the information in an amount not to exceed one hundred dollars ($100.00) per case. Thirty days after the expiration of the six-month period for reporting under subsection (a) of this section, the registry shall send notice to each facility and provider that has not submitted a report as of that date that failure to file a report within 30 days shall result in collection of the data by the registry and liability for reimbursement imposed under this section. Failure to receive or send the notice required under this section shall not be construed as a waiver of the reporting requirement. For good cause, the central cancer registry may grant an additional 30 days for reporting.

(c) As used in this section, the term:

(1) 'Health care facility' or 'facility' means any hospital, clinic, or other facility that is licensed to administer medical treatment or the primary function of which is to provide medical treatment in this State. The term includes health care facility laboratories and independent pathology laboratories;

(2) 'Health care provider' or 'provider' means any person who is licensed or certified to practice a health profession or occupation under Chapter 90 of the General Statutes and who diagnoses or treats cancer."

Section 2. G.S. 130A-210 is repealed.

Section 3. The Health Services Commission may adopt temporary rules in accordance with Chapter 150B of the General Statutes to implement this section.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of April, 1999.

Became law upon approval of the Governor at 9:15 a.m. on the 7th day of May, 1999.

S.B. 299 **SESSION LAW 1999-34**

AN ACT TO INCREASE THE FORCE ACCOUNT LIMIT FOR CABARRUS COUNTY AND THE CITY OF CONCORD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135 reads as rewritten:

"*§ 143-135. Limitation of application of Article.*

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected

officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000)~~ three hundred thousand dollars ($300,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

Section 2. This act applies only to Cabarrus County and the City of Concord.

Section 3. This act is effective when it becomes law and expires June 30, 2000.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law on the date it was ratified.

S.B. 433 **SESSION LAW 1999-35**

AN ACT RELATING TO THE EXERCISE OF EXTRATERRITORIAL JURISDICTION BY THE TOWN OF PINEBLUFF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-360(a) reads as rewritten:

"(a) All of the powers granted by this Article may be exercised by any city within its corporate limits. In addition, any city may exercise these powers within a defined area extending not more than one mile beyond its limits. With the approval of the board or boards of county commissioners with jurisdiction over the area, a city of 10,000 or more population but less than 25,000 may exercise these powers over an area extending not more than two miles beyond its limits and a city of 25,000 or more population may exercise these powers over an area extending not more than three miles beyond its limits. The boundaries of the city's extraterritorial jurisdiction shall be the same for all powers conferred in this Article. No city may exercise extraterritorially any power conferred by this Article that it is not exercising within its corporate limits. In determining the population of a city for the purposes of this Article, the city council and the board of county commissioners may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration. The Town of Pinebluff may exercise the powers granted by this Article for a distance not more than two miles beyond its corporate limits, without regard to the population limit of this section."

Section 2. G.S. 160A-360(f) reads as rewritten:

"(f) When a city annexes, or a new city is incorporated in, or a city extends its jurisdiction to include, an area that is currently being regulated by the county, the county regulations and powers of enforcement shall remain in effect until (i) the city has adopted such regulations, or (ii) a period of 60 days has elapsed following the annexation, extension or incorporation, whichever is sooner. During this period the city may hold hearings and take any other measures that may be required in order to adopt its regulations for the area. When the Town of Pinebluff annexes any area outside its corporate limits thus extending the area over which it would be allowed under subsection (a) of this section to exercise the powers granted by this Article, upon presenting proper evidence to the County Board of Commissioners that the annexation has been accomplished, the County Board of Commissioners shall adopt a resolution authorizing the Town to exercise these powers within the extended area thus described."

Section 3. This act applies to the Town of Pinebluff only.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law on the date it was ratified.

S.B. 627 **SESSION LAW 1999-36**

AN ACT TO PERMIT THE DURHAM CITY COUNCIL TO AUTHORIZE DEPUTY AND ASSISTANT CITY MANAGERS TO MAKE AND EXECUTE CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Section 17 of the Charter of the City of Durham, being Chapter 671, Session Laws of 1975, as amended by Chapter 1249, Session Laws of 1979, Chapter 694, Session Laws of 1981, and Chapters 532 and 617, Session Laws of 1991, and as rewritten by Chapter 121 of the 1993 Session Laws, reads as rewritten:

"Sec. 17. **Powers and Duties of the City Manager.** -- (a) The City Manager shall be responsible to the City Council for the efficient administration of all the affairs of the City under his direction and control. It shall be his duty to attend all meetings of the City Council, with the right to take part in the discussion, but without a vote. He shall be entitled to notice of all special meetings. He shall recommend to the City Council from time to time such measures as he shall deem necessary, and shall furnish the City Council with necessary information respecting any of the departments of the City under his direction and control. The City Manager shall not be personally interested in any contract in which the City is a party for supplying the City materials of any kind.

The City Manager shall have power, and it shall be his duty, to see that the laws and ordinances of the City are enforced.

He shall have power and authority to revoke licenses, pending action by the City Council.

(b) Except as otherwise provided in this Charter, the City Manager shall have power to appoint and remove all heads of departments and all subordinate officers and employees of the City. He shall, except when clearly inconsistent with the provisions of this Charter, exercise supervision and control over all departments and divisions created herein, or that hereafter may be created by the City Council. He shall see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof, he shall call the attention of the City Council and the City Attorney to the same. He shall make and execute all contracts on behalf of the City in such manner as is authorized or provided by resolutions or ordinances passed by the City Council. The City Council may, on such terms as it deems proper, allow the City Manager to authorize one or more assistant city managers and deputy city managers to make and execute such contracts. He shall prepare and submit to the City Council a proposed annual budget, after receiving estimates made by the heads or directors of departments or by any board officer, or commissioner not within a department. He shall keep the City Council at all times advised as to the financial needs and condition of the City. He shall from time to time make oral and written reports to the City Council of the condition and efficiency of the various departments of the City government under his direction and control. The Council may in its discretion cause such written reports to be published for the information of citizens. The City Manager shall perform such other duties as may be prescribed by this Charter, or be required of him by ordinance or resolution of the City Council.

(c) The City Manager shall not engage in political campaigns for elective office, nor attempt to influence the result of such campaigns, except by exercising his right to vote. Improper campaign activity as described herein by the City Manager shall be a cause for his immediate suspension or removal from office.

(d) The City Council may delegate authority to the City Manager to purchase real property or any interest in real property, provided:

(1) The money for the purchase of such real property or interest in real property is available in the then current budget; and

(2) The City Manager, within 45 days following the purchase, shall submit to the City Council a written report setting forth the names of the persons from whom such property or property interest is purchased, a general description of the property or interest in property acquired, the purchase price paid therefor, and the intended use of the property or interest in property.

(e) The City Council may authorize the City Manager to make, approve, award, and execute any contract for the purchase of apparatus, supplies, materials, or equipment and any contract for construction or repair work provided:

(1) The amount of the contract shall not exceed one hundred thousand dollars ($100,000);

(2) The City Manager shall, within 45 days of the award of such contract, report such award to the City Council, provided however,

contracts in an amount less than an amount prescribed by the City Council need not be reported;

(3) The City Manager shall comply with all applicable provisions of Article 8 of Chapter 143 of the General Statutes, and of Section 84 of this Charter. The City Manager may take any action that the City Council is required or authorized to take under Article 8 of Chapter 143 of the General Statutes in making, approving, awarding, or executing such contracts."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law on the date it was ratified.

H.B. 429 **SESSION LAW 1999-37**

AN ACT TO VALIDATE A REFERENDUM CHANGING THE MANNER OF ELECTION OF THE BOARD OF COMMISSIONERS OF MADISON COUNTY, EFFECTIVE IN 2002, AS APPROVED BY THE VOTERS OF THAT COUNTY.

Whereas, the Board of Commissioners of Madison County, **unde**the authority of Part 4 of Article 4 of Chapter 153A of the General Statutes conducted a referendum in November of 1998 on the issue of providing staggered terms for the Madison County Board of Commissioners, and the language in both the ballot and resolution stated this was to become effective beginning with the 2002 election; and

Whereas, the voters of Madison County approved that question in the referendum; and

Whereas, G.S. 153A-62 provides that all such referenda become effective "at the first succeeding primary and general election for county officers"; and

Whereas, the next election for county officers in Madison County is in 2000; and

Whereas, there is some doubt as to the legality of the clause in the resolution calling the referendum which stated it would become effective in 2002, but the General Assembly wishes to follow the will of the voters and validate the referendum; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 169 of the 1973 Session Laws reads as rewritten:

"Section 1. ~~Beginning~~ (a) Except as provided in subsection (b) of this section, beginning with the primary and general election to be held in 1974, the members of the Board of Commissioners of Madison County shall be elected for terms of four years.

(b) In the 2002 general election, the three persons receiving the highest numbers of votes shall be elected for four-year terms, and the two persons receiving the next highest numbers of votes shall be elected for two-year terms. Successors shall be elected for four-year terms.

(c) Effective on the first Monday in December of 2002, the Board of Commissioners of Madison County is expanded from three to five members."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law on the date it was ratified.

H.B. 637 **SESSION LAW 1999-38**

AN ACT TO ESTABLISH A NO-WAKE SPEED ZONE IN COINJOCK CANAL IN CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than a no-wake speed in the Coinjock Canal Intracoastal Waterway in Currituck County. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. With regard to marking the no-wake speed zone established in Section 1 of this act, Currituck County or its designee may place and maintain the markers in accordance with the Uniform Waterway Marking System and any supplementary standards for such system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be sufficient in number and size as to give adequate warning of the no-wake speed zone to the vessels approaching from various directions.

Section 3. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 4. Violation of Section 1 of this act is a Class 3 misdemeanor.

Section 5. This act applies only to Currituck County.

Section 6. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law on the date it was ratified.

H.B. 797 **SESSION LAW 1999-39**

AN ACT EXEMPTING CERTAIN STATE PROPERTY FROM FIRE PROTECTION FEES IMPOSED BY UNION COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S 153A-236(c), as it applies to Union County pursuant to Chapter 883 of the 1991 Session Laws, as amended by Chapter 61 of the 1995 Session Laws, reads as rewritten:

"(c) Fees. -- The fees imposed by the county may not exceed the cost of providing fire protection services within the district and may be imposed on owners of all real property that benefits from the availability of fire

protection and on owners of all manufactured or mobile homes that benefit from the availability of fire ~~protection.~~ protection; provided, however, that the fees shall not be imposed on the North Carolina Department of Transportation for real property owned by the Department and used solely for highway purposes. For the purpose of this section, the term 'fire protection' includes furnishing emergency medical, rescue, and ambulance services to protect persons in the district from injury or death. The county shall establish a schedule of fees for different classes of property and the fee for each class of property shall be proportional to the estimated cost of providing fire protection services to that class of property. The schedule of fees shall include the following classes of property and the fee on each class of property shall not exceed the following maximums:

(1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed fifty dollars ($50.00) per site per year.

(2) Unimproved land other than the five acres of land classified as part of a single-family dwelling or manufactured or mobile home. The fee on this class of property may not exceed two cents (2¢) per acre per year. The county may establish a minimum fee for unimproved land of not more than five dollars ($5.00) per year.

(3) An animal production or horticultural operation. The fee on this class of property may not exceed ten dollars ($10.00) per site per year.

(4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not exceed fifty dollars ($50.00) per site per year for commercial facilities with structures encompassing less than 5,000 square feet and one hundred dollars ($100.00) per site per year for commercial facilities with structures encompassing 5,000 square feet or more.

(5) A multiple-family dwelling. The fee on a duplex may not exceed fifty dollars ($50.00) per building per year. The fee on a triplex may not exceed seventy-five dollars ($75.00) per building per year. The fee on any other multiple-family dwelling may not exceed one hundred dollars ($100.00) per building per year.

(6) Any other class of property selected by the county. The fee on these classes of property may not exceed fifty dollars ($50.00) per year."

Section 2. This act applies to Union County only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law on the date it was ratified.

H.B. 872 **SESSION LAW 1999-40**

AN ACT TO EXEMPT DARE COUNTY FROM CERTAIN REQUIREMENTS FOR PUBLIC CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Dare County may contract for the design and construction of a courthouse facility without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132. In contracting for the design and construction of a courthouse facility, if Dare County accepts bids under the single-prime contract system, it shall also seek bids under the separate-prime contract system. Notwithstanding any provision of law, Dare County may award each contract in its sole discretion.

Section 2. This act is effective when it becomes law and expires July 1, 2002.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law on the date it was ratified.

H.B. 765 **SESSION LAW 1999-41**

AN ACT AMENDING THE BOUNDARIES OF THE VILLAGE OF WESLEY CHAPEL.

The General Assembly of North Carolina enacts:

Section 1. Section 2.1 of the Charter of the Village of Wesley Chapel, being S.L. 1998-43, reads as rewritten:

"Sec. 2.1. **Village Boundaries.** Until modified in accordance with the law, the boundaries of the Village of Wesley Chapel are as follows:

BEGINNING at a point in the centerline of Wesley Chapel-Stouts Road (SR 1377) that intersects with the northwestern extension of the northern property boundary line of parcel 001 as shown on tax map 7-096; thence southeasterly with said property boundary line approximately 3,630 feet to the centerline of the ~~East Fork~~ Twelve Mile Creek; thence southerly with said creek to a point being the centerline of Goldmine Road (SR 1162); thence with the centerline of Goldmine Road in an easterly direction to the intersection of the extension of the centerline of Birmingham Lane; thence with the centerline of Birmingham Lane in a southerly direction to the northeast corner of the property boundary line of parcel 26-A as shown on tax map 7-096; thence southeastward approximately 300 feet to the northeast corner of the property boundary line of parcel 26 as shown on tax map 7-096; thence southwestward approximately 250 feet to the centerline of Birmingham Lane; thence southeastward along the centerline of Birmingham Lane approximately 800 feet to the extension of the southeast corner property boundary line of parcel 4-F as shown on tax map 7-096; thence southwestward with said property boundary line approximately 1,020 feet and then westward with said property boundary line approximately 1,204 feet to the centerline of East Fork Twelve Mile Creek; thence following the southwesterly direction of said creek approximately 2,517 feet with the intersection of N.C. Highway 84; thence following the southerly direction of said creek approximately 1,650 feet to a point being the northernmost corner property boundary line of parcel 7-A as shown on tax map 6-006; thence easterly approximately 333 feet to a point being the northernmost corner of property boundary line of parcel 9 as shown on tax map 6-006; thence

southeasterly then southwesterly and then northwesterly with said parcel until it intersects with the centerline of Potter Road (SR 1162); thence southward on said road approximately 247 feet to the intersection of the extension of the centerline of Parkside Drive; thence westward with the centerline of said road approximately 412 feet to a point being the northernmost property boundary corner of parcel 41 as shown on tax map 6-027; thence southeasterly with the eastern property boundary line of said parcel approximately 825 feet to a point being the easternmost property boundary line of parcel 31 as shown on tax map 6-027; thence southwesterly with the southern property boundary line of said parcel approximately 810 feet to a point being the southernmost property boundary line of parcel 28 as shown on tax map 6-027; thence northwesterly with the western property boundary line of said parcel approximately 1,155 feet to a point being the southernmost property boundary line of parcel 11 as shown on tax map 6-027; thence northerly and then southwesterly with said parcel approximately 1,002 feet to a point being the northeastern corner property boundary line of parcel 5-A as shown on tax map 6-027; thence southeasterly with said parcel approximately 736 feet to the intersection with the centerline of the East Fork Twelve Mile Creek; thence southwestward with said creek approximately 4,785 feet to a point being the centerline of Chambwood Road (SR 1336); thence northeasterly with the centerline of Chambwood Road approximately 2,475 feet to a point being the southernmost property boundary line of parcel 42 as shown on tax map 6-027; thence northwesterly with the southern property line of said parcel approximately 1,155 feet to a point being the intersection with the southern boundary line of parcel 4-C as shown on tax map 6-027; thence westerly with the southern property line of said parcel approximately 1,072 feet and then northwesterly with the western property line of said parcel approximately 1,815 feet to a point being the northernmost property boundary line of parcel 4-B as shown on tax map 6-027; thence northwesterly with the western property boundary line of parcel 8-B as shown on tax map 6-048 approximately 853 feet to a point being the southeastern property boundary line of parcel 20 as shown on tax map 6-045; thence westerly with said parcel approximately 786 feet and then northwesterly with said parcel approximately 509 feet to a point being the intersection of the extension of said line northwestward and the centerline of N. C. Highway 84; thence easterly with the centerline of N. C. Highway 84 approximately 577 feet to a point being the intersection of said centerline and the southeastward extension of the western property boundary line of parcel 16 as shown on tax map 6-045, thence northwesterly then southeasterly and then northwesterly with said parcel approximately 620 feet to a point being the northwestern most property boundary line of parcel 11 as shown on tax map 6-045; thence northwesterly approximately 1,155 feet to a point being the northeast corner of parcel 7-B as shown on tax map 6-045; thence southerly and then northwesterly with said parcel approximately 1,017 feet to a point being the southwestern most property boundary line of parcel 15-A as shown on tax map 6-045; thence northerly with said parcel approximately 247 feet to a point being the southeastern most property boundary line of parcel 22-B as shown on tax map 6-045; thence westerly and then northerly with said parcel approximately 660 feet to a point being

the intersection with the southern property boundary line of parcel 24 as shown on tax map 6-045; thence westerly then northerly with said parcel approximately 577 feet to a point being the intersection with the centerline of Underwood Road (SR 1377); thence southeasterly with the centerline of said road approximately 1,139 feet to a point being the extension of the western property boundary line of parcel 16 as shown on tax map 6-045; thence northerly and then southeasterly with said parcel to a point being the intersection of the centerline of Little Twelve Mile Creek; thence northerly with said creek approximately 2,145 feet to a point being the intersection with Potter Road (SR 1346); thence northerly with said creek approximately 1,520 feet to a point being a corner in the southwestern property boundary line of parcel 2 as shown on tax map 6-021; thence northeasterly, then northerly, then westerly, and then northerly with said property line to a point being the southern property boundary line of parcel 3 as shown on tax map 6-021; thence westerly with said parcel approximately 330 feet to a point being the corner of the southwest property boundary line of said parcel; thence northeasterly approximately 1,815 feet to a point being the intersection with the southwestward property boundary line of parcel 5 as shown on tax map 7-120; thence northwesterly then northeasterly and then southeasterly with said property line to a point being the northernmost corner property boundary line of parcel 7 as shown on tax map 7-120; thence with the extension of said property boundary line to the centerline of Hawfield Road (SR 1354); thence southeasterly with the centerline of said road approximately 2,145 feet to the intersection with the centerline of Wesley Chapel-Stouts Road (SR 1377); thence northeasterly with the centerline of said road approximately 1,980 feet to the point and place of BEGINNING. Excluded from this description are Tracts IV, V, and VI annexed to the Town of Indian Trail under Part 4 of Article 4A of Chapter 160A of the General Statutes by Annexation Ordinance 40 adopted May 25, 1998, more particularly described as follows:

TRACT IV:

BEGINNING at a point where the centerline of the right-of-way of S.R. 1162 (known as Goldmine Road) intersects the centerline of the right-of-way of S.R. 1377 (known as Wesley Chapel-Stouts Road) (the right-of-way for each road being 60 feet wide), and running from said beginning point with the center of the right-of-way of S.R. 1377 as follows: (1) N 44-22-25 E 148.77 feet to a point; (2) N 40-39-45 E 528.84 feet to a point, a corner of Lot 8 of Houston Farm Subdivision, Phase III (Plat Cabinet B, File 306-A, Union County Registry); thence with the southwestern boundary of Lot 8 of said subdivision, South 35-01-09 E 231.18 feet to a point, a corner of Lot 9 of Houston Farm Subdivision, Phase III; thence with southwest boundary of Lot 9 of said subdivision, S 34-51-04 E 249.94 feet to a point in the center of the right-of-way of S.R. 1162; thence with the center of the right-of-way of S.R. 1162 as follows: (1) S 82-52-40 W 134.60 feet to a point; (2) S 80-44-44 W 558.83 feet to a point; (3) S 80-32-27 W 39.54 feet to the point of BEGINNING, and containing 3.54 acres, more or less, as shown on copy of map of survey prepared by F. Donald Lawrence & Associates, P.A., NCRLS, dated October 27, 1986, and recorded in Plat Cabinet B, at Page 306-A, Union County Registry.

TRACT V:
BEGINNING at a point where the centerline of the right-of-way of S.R. 1162 (known as Goldmine Road) intersects with the centerline of the right-of-way of S.R. 1377 (known as Wesley Chapel-Stouts Road), and running from said beginning point with the centerline of the right-of-way of S.R. 1162 as follows: (1) S 80-32-25 W 320.00 feet to a point; (2) S 80-33-44 W 591.51 feet to a point; (3) S 75-37-55 W 89.30 feet to a point; (4) S 47-08-50 W 60.77 feet to a point; (5) S 11-11-50 W 64.16 feet to a point near the center of the intersection of S.R. 1162 and S.R. 1355; thence N 15-46-08 W 35.86 feet to a point within the right-of-way of S.R. 1162; thence N 32-02-38 W 181.80 feet to a point in the center of the right-of-way of S.R. 1355; thence with the center of the right-of-way of S.R. 1355 as follows: (1) N 29-11-30 W 293.99 feet to a point; (2) N 32-02-58 W 431.58 feet to a point; (3) N 32-38-20 W 364.15 feet to a point in the center of said road right-of-way; thence N 45-02-45 E 3329.74 feet to a point in the southwestern boundary of the right-of-way of S.R. 1354 (known as Hawfield Road); thence within the right-of-way of S.R. 1354 (but not the centerline thereof), S 36-43-29 E 1656.35 feet to the point where the centerline of S.R. 1354 intersects the centerline of the right-of-way of S.R. 1377; thence with the center of the right-of-way of S.R. 1377 as follows: (1) S 51-43-45 W 98.35 feet to a point; (2) S 47-36-55 W 68.82 feet to a point; (3) S 41-39-39 W 102.57 feet to a point; (4) S 38-38-51 W 105.59 feet to a point; (5) S 38-07-38 W 270.65 feet to a point; (6) S 39-00-58 W 103.56 feet to a point; (7) S 40-22-09 W 110.27 feet to a point; (8) S 40-39-45 W 1471.25 feet to a point; (9) S 44-22-25 W 148.77 feet to the point of BEGINNING, and containing 129.06 acres, more or less, as shown on copy of unrecorded map of survey prepared by F. Donald Lawrence & Associates, P.A., NCRLS, dated March 6, 1986.
TRACT VI:
Beginning at a point in the centerline of Goldmine Road (S.R. 1162) the common corner of Lot #12 and #11 of Houston Farms, Phase I as shown on plat recorded in Plat Cabinet A, File 101-A, Union County Registry. Thence with the centerline of said road as follows: 1st N12-56-05W 122.27', 2nd N13-03-20W 105.36', 3rd N07-14-55W 76.96', 4th N11-11-50W 64.16', 5th N47-08-50W 60.77', 6th N76-37-55E 80.30', 7th N80-33-40E 419.44' to a point in the centerline of said road, the common corner of Lot #11 and #10, thence S33-44-00W 358.84' to an iron stake the common corner of Lot #10, #11, #12, thence S53-00-00W 366.35' to the point and place of BEGINNING, being all of Lot #11 and containing 3.34 acres.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of May, 1999.

Became law on the date it was ratified.

H.B. 837 **SESSION LAW 1999-42**

AN ACT EXTENDING THE TOWN OF CHOCOWINITY'S EXTRATERRITORIAL JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. In addition to any areas where the Town of Chocowinity exercises extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes, the Town shall have extraterritorial jurisdiction under that Article in the following described area, which includes the Cypress Landing Subdivision:

BEGINNING at the existing Extraterritorial Jurisdiction at the southeast corner of the Margaret Louise Barr property, otherwise known as Parcel number 5674-31-1415 on the Beaufort County Land Records; thence from said point in a southeasterly direction following the right-of-way of Norfolk Southern Railroad to the southeast corner of the Weyerhaeuser Real Estate Company property, otherwise known as Parcel number 5674-83-5374 on the Beaufort County Land Records; thence from said point in a north/northeasterly direction following the eastern property line of the Weyerhaeuser Real Estate Company property, otherwise known as Parcel number 5674-83-5374 on the Beaufort County Land Records, to the right-of-way of SR 1123; thence from said point in a southeasterly direction following the right-of-way of SR 1123 to the southeastern corner of the Curtis Earl Grist and Sharon Grist property, otherwise known as Parcel number 5683-18-6341 on the Beaufort County Land Records; thence from said point in a northeasterly direction following the eastern property line of the Curtis Earl Grist and Sharon Grist property, otherwise known as Parcel number 5683-18-6341 on the Beaufort County Land Records, to the northeast corner of said Parcel; thence from said point in a northeasterly direction following the eastern property line of the Addie Grist property, otherwise known as Parcel number 5683-18-8615 on the Beaufort County Land Records, to the northeastern corner of said Parcel; thence from said point in a varying easterly and northeasterly direction following the northern property line of the Charlotte Stokes Garris property, otherwise known as Parcel number 5683-28-9280 on the Beaufort County Tax Records, to the property line of the James Bragg Robertson, Jr. property, otherwise known as Parcel number 5683-48-4138 on the Beaufort County Tax Records; thence from said point in a northeasterly direction following the western property line of the James Bragg Robertson, Jr. property, otherwise known as Parcel number 5683-48-4138, to the mouth of Rice Creek; thence from said point in a generally northwesterly direction following the southern bank of Chocowinity Bay to the existing Extraterritorial Jurisdiction at the intersection of the right-of-way of Norfolk Southern Railroad and the center of Crawford Creek.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of May, 1999.

Became law on the date it was ratified.

H.B. 846 **SESSION LAW 1999-43**

AN ACT ALLOWING THE TOWN OF FARMVILLE TO EXERCISE EXTRATERRITORIAL JURISDICTION OVER AN AREA EXTENDING TWO MILES FROM ITS LIMITS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 160A-360(a), the Town of Farmville may exercise the powers granted in Article 19 of Chapter 160A of the General Statutes over an area extending not more than two miles beyond its limits with the approval of the Board of County Commissioners as to the specific area within the additional territory.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of May, 1999.

Became law on the date it was ratified.

H.B. 334 **SESSION LAW 1999-44**

AN ACT TO REPEAL CERTAIN OBSOLETE AGRICULTURAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 81A-41 is repealed.

Section 2. G.S. 81A-44 is repealed.

Section 3. Article 37 of Chapter 106 of the General Statutes is repealed.

Section 4. G.S. 106-456 through G.S. 106-460 are repealed.

Section 5. Article 41 of Chapter 106 of the General Statutes is repealed.

Section 6. Article 59 of Chapter 106 of the General Statutes is repealed.

Section 7. Article 60 of Chapter 106 of the General Statutes is repealed.

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of May, 1999.

Became law upon approval of the Governor at 11:10 a.m. on the 13th day of May, 1999.

S.B. 626 **SESSION LAW 1999-45**

AN ACT TO AUTHORIZE THE DURHAM CITY COUNCIL TO DELEGATE TO THE CITY FIRE DEPARTMENT THE AUTHORITY TO APPROVE FIREWORKS DISPLAYS.

The General Assembly of North Carolina enacts:

Section 1. Section 60 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, reads as rewritten:

"Sec. 60. **Fireworks and Firearms.** -- The City Council ~~shall have power to~~ may regulate or prevent the firing of firearms, fireworks, and all explosives or combustible or dangerous material in the streets, public grounds or elsewhere, within or near the City.

Fireworks may be exhibited, used or discharged at public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, only

after written permission has been obtained from the ~~City Council.~~ City. The City Council may delegate authority to grant such permission to the city fire department."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law on the date it was ratified.

S.B. 44 **SESSION LAW 1999-46**

AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE TOWN OF LAKE WACCAMAW.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Lake Waccamaw are extended to include the following described territory:

Waccamaw Shores Drive

BEGINNING at an existing concrete monument, in the northeast right-of-way of Waccamaw Shores Drive, also known as S.R. 1967, said existing concrete monument marking the most southern corner of the Lake Waccamaw Camp Ground lands now or formerly belonging to Gene Grainger as recorded in Deed Book 385 Page 531 Columbus County Registry, said existing concrete monument also marking the most western corner of lands of James and Paul Council as recorded in Deed Book 261 Page 189 of the Columbus County Registry. Said existing concrete monument also marking the most southern limits of the Town of Lake Waccamaw. Running thence along the eastern edge of Waccamaw Shores Drive in a northwesterly direction to a point located approximately North 63 degrees 33 minutes 00 seconds East 60.00 feet from the southeast corner of Lot 306, Waccamaw Shores Subdivision as shown and delineated in Plat Book 11, Page 65, of the Columbus County Registry. Thence crossing Waccamaw Shores Drive South 63 degrees 33 minutes 00 seconds West 60.00 feet to the southeast corner of Lot 306, Waccamaw Shores Subdivision as shown and delineated in Plat Book 11, Page 65, of the Columbus County Registry. Thence continuing along the line between Lot 306 and Lot 305 South 63 degrees 33 minutes 00 seconds West 119.88 feet to the southwest corner of Lot 306 and the northwest corner of Lot 305. Thence continuing South 63 degrees 33 minutes 00 seconds West to a point located North 37 degrees 25 minutes 00 seconds West from the northwest corner of Lot 304. Thence South 37 degrees 25 minutes 00 seconds East to the northwest corner of Lot 304, located in the center of a canal. Thence along the west and southwest lines of Lots 304 thru 1 of Block D, Waccamaw Shores Subdivision as shown and delineated in Plat Book 11, Page 65, Plat Book 8, Page 33, Plat Book 8, Page 31, Plat Book 8, Page 29, Plat Book 8, Page 27, and Plat Book 8, Page 25, all of the Columbus County Registry, to the southwest corner of Lot 1, Block D, Waccamaw Shores Subdivision as shown and delineated in Plat Book 8, Page 25, of the Columbus Country Registry. Thence continuing southwestwardly along the southwest lines of Lots 1 thru 272 of Block B of the Waccamaw Shores

Subdivision as shown and delineated in Plat Book 8, Page 6, Plat Book 8, Page 7, Plat Book 8, Page 8, Plat Book 8, Page 9, Plat Book 8, Page 10, Plat Book 8, Page 11, and Plat Book 8, Page 12, all of the Columbus County Registry, to the southwest corner of Lot 272 of Block B of the Waccamaw Shores Subdivision as shown and delineated in Plat Book 8, Page 12, of the Columbus Country Registry, in the center of a canal. Thence along the south line of Lot 272 North 82 degrees 34 minutes 00 seconds East 145.00 feet to a point in the western right-of-way of Waccamaw Shores Drive, marking the southeast corner of Lot 272. Thence crossing Waccamaw Shores Drive approximately North 75 degrees 21 minutes 00 seconds East 60.50 feet to an existing concrete monument marking the southwest corner of Lot 273 of Block A of the Waccamaw Shores Subdivision as shown and delineated on a plat recorded in Plat Book 8 Page 12 of the Columbus County Registry. Running thence in a northwesterly direction with the eastern edge of Waccamaw Shores Drive to the point and place of beginning.

Shawnee Acres and Bella Coola

TRACT 1

For a tie line, begin at an old concrete control monument located at the northwestern corner of Lot 1 in that plat for Bella Coola Corp. recorded in Plat Book 8, Page 24, of the Columbus County Registry. Thence North 86 degrees 11 minutes East 34.01 feet to a point in the center of S.R. 1947, locally known as Creek Ridge Road, this being THE POINT AND PLACE OF BEGINNING. Thence North 86 degrees 11 minutes East 34.01 feet to a point, this being the northwestern corner of Lot 1A of that plat for Bella Coola Corp. recorded in Plat Book 10, Page 95, of the Columbus County Registry. Thence North 65 degrees 08 minutes East 192.51 feet to a point. Thence South 81 degrees 10 minutes East 34.54 feet to a point. Thence South 35 degrees 44 minutes East 54.00 feet to a point. Thence South 23 degrees 54 minutes East 101.01 feet to a point. Thence South 35 degrees 55 minutes East 100.24 feet to a point. Thence South 37 degrees 04 minutes East 100.46 feet to a point. Thence South 28 degrees 41 minutes East 72.21 feet to a point. Thence South 30 degrees 03 minutes East 101.33 feet to a point. Thence South 35 degrees 25 minutes East 100.29 feet to a point. Thence South 34 degrees 39 minutes East 100.37 feet to a point. Thence South 37 degrees 29 minutes East 100.08 feet to a point. Thence South 43 degrees 52 minutes East 100.37 feet to a point. Thence South 40 degrees 23 minutes East 117.93 feet to a point. Thence South 41 degrees 30 minutes East 55.58 feet to a point. Thence South 31 degrees 09 minutes East 67.90 feet to a point. Thence South 18 degrees 00 minutes East 118.26 feet to a point. Thence South 14 degrees 49 minutes East 100.78 feet to a point. Thence South 17 degrees 30 minutes East 100.30 feet to a point. Thence South 68 degrees 11 minutes West 202.97 feet to a point in the centerline of S.R. 1947, said point being located South 68 degrees 11 minutes West 30.00 feet from the southwest corner of Lot 15A as shown and delineated in that plat for Bella Coola Corp. recorded in Plat Book 10, Page 95, of the Columbus County Registry. Thence following the centerline of S.R. 1947 in a northwesterly direction back to the point and place of beginning.

TRACT 2

BEGINNING at PKS #172, located in the centerline of S.R. 1947, locally known as Creek Ridge Road, said point being shown and delineated in that map entitled "The Big Creek Tract at Lake Waccamaw -- The Southern Part" for IP Timberlands Operating Co., Ltd. and International Paper Company recorded in Plat Book 60, Page 61, of the Columbus County Registry. Thence North 28 degrees 42 minutes 02 seconds East 202.38 feet to a post. Thence North 29 degrees 22 minutes 26 seconds East 28.43 feet to an existing iron pipe. Thence South 55 degrees 49 minutes 35 seconds East 3612,22 feet to an existing iron pipe located on the west bank of Big Creek. Thence South 35 degrees 55 minutes 49 seconds West approximately 376.68 feet to a point located in the centerline of S.R. 1947. Thence following the centerline of S.R. 1947 in a northwesterly direction to the point and place of beginning.

Section 2. This act becomes effective only upon adoption of an ordinance by the Town of Lake Waccamaw.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law on the date it was ratified.

S.B. 335 **SESSION LAW 1999-47**

AN ACT TO CLARIFY THE LAW REGARDING REDUCTION OR CONTINUATION OF A TEACHER'S BONUS, AS IT APPLIES TO THE CHARLOTTE-MECKLENBURG COUNTY SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. In accordance with G.S. 115C-325 and by way of clarification, if a local school administrative unit provides a bonus or other salary increment to a teacher because the teacher teaches at a targeted school with high proportions of at-risk students, neither reassignment of that teacher to a school at which there is no such bonus or other salary increment nor discontinuance or reduction of the bonus or other salary increment at that school shall constitute a demotion as that term is defined in G.S. 115C-325(a)(4).

In accordance with G.S. 115C-325 and by way of clarification, if a local school administrative unit provides a bonus or other salary increment to a teacher because the teacher is certified to teach in an area in which there is a shortage of teachers, neither discontinuance nor reduction of the bonus or other salary increment for teachers certified to teach in that area shall constitute a demotion as that term is defined in G.S. 115C-325(a)(4).

Section 2. This act applies only to the Charlotte-Mecklenburg County School Administrative Unit.

Section 3. This act is effective when it becomes law and applies beginning with the 1999-2000 school year.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law on the date it was ratified.

H.B. 847 **SESSION LAW 1999-48**

AN ACT RELATING TO THE INVESTMENT OF CERTAIN FUNDS BY PITT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 159-30, the County of Pitt may invest and reinvest equity assets funds received from the transfer of Pitt County Memorial Hospital in one or more of the types of securities or other investments, and subject to the same restrictions, as authorized by State law for the State Treasurer in G.S. 147-69.2.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law on the date it was ratified.

H.B. 326 **SESSION LAW 1999-49**

AN ACT TO ALLOW THE DIVISION OF NORTH CAROLINA AQUARIUMS TO DISPOSE OF EXHIBITS FROM THE COLLECTIONS OF THE NORTH CAROLINA AQUARIUMS IN ACCORDANCE WITH GENERALLY ACCEPTED PRACTICES FOR ACCREDITED ZOOS AND AQUARIUMS, TO REQUIRE THAT THE NET PROCEEDS OF ANY SALE OR LEASE OF EXHIBITS BE CREDITED TO THE NORTH CAROLINA AQUARIUMS FUND, AND TO REQUIRE THE DIVISION OF NORTH CAROLINA AQUARIUMS TO REPORT ON RECEIPTS OF AND EXPENDITURES FROM THE NORTH CAROLINA AQUARIUMS FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-289.41(a) is amended by adding a new subdivision to read:

"(1c) Notwithstanding Article 3A of Chapter 143 of the General Statutes, and G.S. 143-49(4), dispose of any exhibit, exhibit component, or object from the collections of the North Carolina Aquariums by sale, lease, or trade. A sale, lease, or trade under this subdivision shall be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums. After deducting the expenses attributable to the sale or lease, the net proceeds of any sale or lease shall be credited to the North Carolina Aquariums Fund."

Section 2. G.S. 143B-289.44 is amended by adding a new subsection to read:

"(d) The Division of North Carolina Aquariums shall submit to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division by September 30 of each year a report on the North Carolina Aquariums Fund that shall include the source and amounts

of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

Section 3. The first report required by G.S. 143B-289.44(d), as enacted by Section 2 of this act, shall be due on September 30, 2000.

Section 4. Sections 1 and 4 of this act are effective when this act becomes law. Sections 2 and 3 of this act become effective July 1, 1999.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law upon approval of the Governor at 10:15 a.m. on the 14th day of May, 1999.

S.B. 313 **SESSION LAW 1999-50**

AN ACT TO ALLOW MECKLENBURG COUNTY TO CONTINUE TO LEVY STORMWATER FEES IF REVENUE BONDS HAVE BEEN ISSUED AND ARE OUTSTANDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-277(a1) reads as rewritten:

"(a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

The fees established under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the county's cost of providing a stormwater and drainage system.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate structural and natural stormwater and drainage system services in the same area within a ~~county.~~ county, except that a unit of local government that has issued revenue bonds, including revenue bonds issued to refund prior revenue bonds, for which stormwater utility fees have been pledged under Article 5 of Chapter 159 of the General Statutes may continue to levy a stormwater utility fee under this subsection for the sole purpose of (i) paying principal, interest, or redemption premiums in accordance with the terms of the revenue bonds, (ii) funding any reserve requirements or similar obligations imposed by any documents, instruments, or agreements pursuant to which the revenue bonds are authorized or issued or securing the same or any

related credit facility, liquidity facility, derivative agreement, or any other similar agreement, and (iii) paying any related cost, fees, and expenses until the revenue bonds have been retired. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a single structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing structural and natural stormwater and drainage system services."

Section 2. This act applies to Mecklenburg County only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law on the date it was ratified.

H.B. 371 **SESSION LAW 1999-51**

AN ACT TO ADD SEVERAL COUNTIES TO THOSE COUNTIES IN WHICH IT IS UNLAWFUL TO REMOVE OR DESTROY ELECTRONIC COLLARS ON DOGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.17 reads as rewritten:

"*§ 14-401.17. Unlawful removal or destruction of electronic dog collars.*

(a) It is unlawful to intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.

(b) A first conviction for a violation of this section is a Class 3 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 2 misdemeanor.

(c) This act is enforceable by officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

(d) This act applies only to Alamance, Avery, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Caswell, Cherokee, Clay, Columbus, Craven, Cumberland, Davidson, Graham, Haywood, Henderson, Hyde, Jackson, Macon, Madison, McDowell, Mecklenburg, Mitchell, New Hanover, Orange, Pasquotank, Pitt, Robeson, Rockingham, Swain, ~~Macon, Henderson,~~ Transylvania, Union, ~~and Wilkes,~~ Wilkes, and Yancey Counties."

Section 2. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law on the date it was ratified.

H.B. 587 **SESSION LAW 1999-52**

AN ACT TO INCREASE THE INFORMAL BID LIMITS RELATING TO THE LETTING OF PURCHASE CONTRACTS BY THE CITY OF GREENSBORO.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-129(a) reads as rewritten:

"(a) No construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than one hundred thousand dollars ($100,000) or purchase of apparatus, supplies, materials, or equipment requiring an estimated expenditure of public money in an amount equal to or more than ~~thirty thousand dollars ($30,000),~~ fifty thousand dollars ($50,000), except in cases of group purchases made by hospitals through a competitive bidding purchasing program or in cases of special emergency involving the health and safety of the people or their property, shall be performed, nor shall any contract be awarded therefor, by any board or governing body of the State, or of any institution of the State government, or of any county, city, town, or other subdivision of the State, unless the provisions of this section are complied with. For purposes of this Article, a competitive bidding group purchasing program is a formally organized program that offers purchasing services at discount prices to two or more hospital facilities. The limitation contained in this paragraph shall not apply to construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section. Further, the provisions of this section shall not apply to the purchase of gasoline, diesel fuel, alcohol fuel, motor oil or fuel oil. Such purchases shall be subject to G.S. 143-131.

For purchases of apparatus, supplies, materials, or equipment, the governing body of any municipality, county, or other political subdivision of the State may, subject to any restriction as to dollar amount, or other conditions that the governing body elects to impose, delegate to the manager or the chief purchasing official the authority to award contracts, reject bids, readvertise to receive bids on behalf of the unit, or waive bid bonds or deposits, or performance and payment bond requirements. Any person to whom authority is delegated under this subsection shall comply with the requirements of this Article that would otherwise apply to the governing body."

Section 2. This act applies only to the City of Greensboro.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law on the date it was ratified.

H.B. 829 **SESSION LAW 1999-53**

AN ACT TO ASSIST THE TRANSYLVANIA SCHOOLS WITH THE EXPEDITING OF PUBLIC SCHOOL FACILITIES.

Whereas, the Transylvania County Board of Education is currently engaged in the construction of educational facilities at Brevard High School; and

Whereas, the Transylvania County Board of Education desires to explore alternative approaches to expedite the construction of school facilities at Brevard High School in order to minimize the impact on teaching and learning; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Transylvania County Board of Education may select and negotiate with separate prime contractors to build Phase II of the Brevard High School project if the Transylvania County Board of Education determines that using the selection and negotiations process instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Section 2. This act shall apply to Phase II construction of the Brevard High School project using 1996 State Bond funding and 1997 Local Bond funding with construction to begin in June 1999 and completion scheduled by December 2000.

Section 3. This act is effective when it becomes law and expires on June 30, 2001.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law on the date it was ratified.

S.B. 534 **SESSION LAW 1999-54**

AN ACT PROVIDING THAT THE TOWN OF KENANSVILLE IS NOT OBLIGATED TO PROVIDE SERVICES TO CERTAIN ANNEXED PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, the Town of Kenansville is not obligated to provide any services to Country Squire Restaurant, described herein as Tract 1, and Grey Fox Restaurant (formerly known as Josef's Restaurant), described herein as Tract 2:

Tract 1

Located in Kenansville Township, Duplin County, North Carolina and more particularly described as follows:

BEGINNING at a railroad spike in the centerline of North Carolina Highway Number 24, corner "A" shown on a map entitled "Country Squire & Vintage Inn Property", dated October 7, 1982, as recorded in Map Book 11, Page 95, of the Duplin County Registry, the northwest corner of Tract No. 10 of the T. J. McGowan Division (Map Book 5, Page 15), said railroad spike being located North 58 degrees 17 minutes 25 seconds West

470.90 feet from a 1/2 inch iron rod in the centerline intersection of N.C. Hwy. No. 24 and N.C.S.R. No. 1376, and runs thence;

1. With the center of the pavement of N.C. Hwy. No. 24 North 58 degrees 17 minutes 25 seconds West 499.84 feet to a 1/2 inch iron rod; thence

2. North 25 degrees 27 minutes 15 seconds East 389.50 feet (passing a concrete monument at 176.03 feet) to a concrete monument, corner "C"; thence

3. North 76 degrees 43 minutes 45 seconds East 92.29 feet to a concrete monument, corner "D"; thence

4. South 65 degrees 06 minutes 15 seconds East 317.76 feet to a concrete monument, corner "E"; thence

5. South 38 degrees 40 minutes 15 seconds East 534.67 feet to a concrete monument in the north line of Tract No. 10 of the T. J. McGowan division, corner "F"; thence

6. With the line of Tract No. 10 South 79 degrees 28 minutes 35 seconds West 461.98 feet to the point of BEGINNING, containing 7.26 acres, more or less, as shown on a map entitled "Country Squire & Vintage Inn Property" dated October 7, 1982 as recorded in Map Book 11, Page 95 of the Duplin County Registry, and being part of that land described in deeds recorded in the Duplin County Registry as follows: To Joseph A. West and wife, Janet H. West in Book 553, Page 93, to H. M. West in Book 423, Page 274, to Joseph A. West in Book 756, Page 304, and to Joseph A. West in Book 898, Page 539. And further being the same lands described in a deed dated the 22nd day of October, 1982, from Joseph A. West (Single) and Leona H. West (Widow), to Eakes Investment Company, Joe D. Eakes and Doris W. Eakes, partners, recorded in Book 903, Page 340, Duplin County Registry.

Tract 2

Located in Kenansville Township, Duplin County, State of North Carolina, and being described with bearings relative to the North Carolina Grid Meridian as follows:

BEGINNING at a 1/2 inch iron rod in the center of the pavement of N. C. Hwy. No. 24 and 50 corner "B" shown on a map recorded in Map Book 11, Page 95 of the Duplin County Registry, said iron rod being located North 58 degrees 17 minutes 25 seconds West a distance of 970.74 feet from a 1/2 inch rod in the centerline intersection of N. C. Hwy. No. 24 and S. R. No. 1376, and runs thence

With the center of the pavement of N. C. Hwy. No. 24 and 50 North 58 degrees 17 minutes 25 seconds West a distance of 119.02 feet to a 1/2 inch iron rod in the center of pavement; thence

To and with the line of the 1.17 acre house tract North 31 degrees 21 minutes 44 seconds East a distance of 251.84 feet to a 3/4 inch iron pipe; thence

North 31 degrees 21 minutes 44 seconds East a distance of 100.00 feet to a 1/2 inch iron rod; thence

North 58 degrees 17 minutes 25 seconds West a distance of 252.77 feet to a stake; thence

North 31 degrees 21 minutes 44 seconds East a distance of 500.00 feet to a stake; thence

South 58 degrees 17 minutes 25 seconds East a distance of 350.00 feet to a stake; thence

South 24 degrees 36 minutes 16 seconds West a distance of 402.50 feet to a concrete monument a corner of the 7.26 acre tract sold to the Eakes Investment Company; thence

With the lines of the 7.26 acre tract South 76 degrees 43 minutes 45 seconds West a distance of 92.29 feet to a concrete monument, South 25 degrees 27 minutes 15 seconds West a distance of 389.50 feet to the point of beginning, CONTAINING 5.06 acres more or less, and being part of the 80 acre tract described in a deed to H. M. West as recorded in Book 423, Page 274 of the Duplin County Registry.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law on the date it was ratified.

S.B. 720 **SESSION LAW 1999-55**

AN ACT TO PROVIDE DURHAM COUNTY AND THE CITY OF DURHAM WITH ADDITIONAL OPTIONS FOR SERVICE OF PROCESS IN ZONING CODE CASES.

The General Assembly of North Carolina enacts:

Section 1.(a) Notice of violation of an ordinance adopted under Parts 1, 2, and 3 of Article 18 of Chapter 153A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after mailing, provided that a notice of violation is posted in a conspicuous place on the premises affected.

Section 1.(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable

diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the county. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected.

Section 2. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

"94.6. Service of Process of Zoning Code Violations.

(a) Notice of violation of an ordinance adopted under Parts 1, 2, 3, or 3C of Article 19 of Chapter 160A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after mailing, provided that a notice of violation is posted in a conspicuous place on the premises affected.

(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the city. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected."

Section 3. Section 1 of this act applies to Durham County only. Section 2 of this act applies to the City of Durham only.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law on the date it was ratified.

H.B. 179 **SESSION LAW 1999-56**

AN ACT TO INCREASE THE MONTHLY BENEFIT TO MEMBERS OF THE WILKESBORO FIREMEN'S SUPPLEMENTAL PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. Chapter 131 of the 1985 Session Laws reads as rewritten:

"Section 1. There is established a Supplemental Pension Fund for the Fire Department of the Town of Wilkesboro to be known as the "Wilkesboro Firemen's Supplemental Pension Fund", hereinafter referred to as "Supplemental Pension Fund", and to be administered by a board composed of the members of the trustees of the Firemen's Relief Fund of the Town of Wilkesboro, established in accordance with G.S. 118-6.

Sec. 2. Notwithstanding the provisions of G.S. 118-7, all funds in the Firemen's Relief Fund of the Town of Wilkesboro in excess of five thousand

dollars ($5,000) shall be transferred to the "Supplementary Pension Fund" prior to January 1, 1985, and prior to January 1 of each calendar year thereafter, so as to retain in the Firemen's Relief Fund an amount of money not greater than five thousand dollars ($5,000); provided, however, the Firemen's Relief Fund shall have restored the sums from recurring annual receipts as are necessary to maintain a fund of not less than five thousand dollars ($5,000); provided further, of the funds and subsequent recurring increments transferred from the Firemen's Relief Fund of the Town of Wilkesboro to the "Supplemental Pension Fund", any or all of the same shall be retrievable by and to the Firemen's Relief Fund of the Town of Wilkesboro in order to defray and meet the legitimate claims accruing under the provisions and coverage of the Firemen's Relief Fund of the Town of Wilkesboro.

Sec. 3. Any person who is a member of the Wilkesboro Fire Department, or a retired member of the Wilkesboro Fire Department, as shown by the records of the Town of Wilkesboro at the time of ratification of this act, or any person who becomes a member, or any fireman of the Town of Wilkesboro who has become totally and permanently disabled and who has served as a fireman of the Town of Wilkesboro for five or more years, is eligible for benefits from the "Supplemental Pension Fund"; provided that the person has been retired as a member of the Wilkesboro Fire Department under the provisions of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund as set out in Article 3, Chapter 118 of the General Statutes of North Carolina and as participated in by the Town of Wilkesboro, or as a voluntary member of the Fire Department of the Town of Wilkesboro, or has left service because of the total and permanent disability described in this section. This act does not modify or alter in any way the Worker's Compensation Laws of this State.

Sec. 4. Any member who has served 20 years as a fireman in the Wilkesboro Fire Department and has attained the age of 55 or who has served for five or more years and has become totally and permanently disabled is entitled to receive a monthly pension from the "Supplemental Pension Fund". This monthly pension shall be in the amount of ~~seventy-five dollars ($75.00)~~ one hundred dollars ($100.00) per month. If, for any reason, the Fund shall be insufficient to pay in full any pension benefits, or other charges, then all benefits shall be reduced pro rata for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a benefit payment shall have been reduced.

Sec. 5. The Treasurer of the Board of Trustees of the Wilkesboro Firemen's Relief Fund shall, from time to time, pay to the city clerk sufficient funds from the "Supplemental Pension Fund" to pay the beneficiaries on the first day of each and every month any monies the beneficiaries are entitled to under the provisions of this act.

Sec. 6. The Treasurer of the Firemen's Relief Fund of the Town of Wilkesboro, as custodian of the "Supplementary Pension Fund", shall be required to give a bond with an indemnity company authorized to do business in the State of North Carolina as surety in a sum equal to the maximum amount estimated by the board of trustees as likely to be in his possession as custodian at any time within the fiscal year for which the bond

is given. This bond is in lieu of the bond required by G.S. 118-6. The condition of the bond shall be that the custodian shall faithfully receive, keep, disburse, and account for, as provided in this act, all funds and property coming into his hands as custodian, and the premiums on the bond shall be paid by the Town of Wilkesboro.

Sec. 7. The custodian of the "Supplemental Pension Fund" shall invest all monies coming into his possession belonging to the "Supplemental Pension Fund", except so much as the board of trustees from time to time determine is reasonably necessary for the prompt payment of claims and expenses, in securities as the board of trustees shall select. These securities shall be limited to those named in or authorized by either G.S. 159-30 or G.S. 159-31. Investments in certificates of deposit or time deposits in any bank or trust company or savings and loan associations shall not exceed the amount insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, unless these deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 8. The board of trustees may accept any gift, grant, bequest, or devise or any real or personal property or other instrument of value for the use of "Supplementary Pension Fund".

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are repealed.

Sec. 10. None of the provisions of this act shall create a liability for the Wilkesboro Firemen's Supplemental Pension Fund unless sufficient current assets are available in the Fund to pay fully for the liability.

Sec. 11. This act is effective upon ratification."

Section 2. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law on the date it was ratified.

H.B. 471 **SESSION LAW 1999-57**

AN ACT AMENDING THE CHARTERS OF THE TOWNS OF STOKESDALE, SUMMERFIELD, PLEASANT GARDEN, AND OAK RIDGE TO EXEMPT AGRICULTURAL LAND USES WITHIN THOSE JURISDICTIONS FROM ZONING.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Stokesdale, being Chapter 488 of the 1989 Session Laws, as amended by Chapter 956 of the 1989 Session Laws, is amended by adding a new section to read:

"Sec. 5.2. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

Section 2. The Charter of the Town of Summerfield, being Chapter 426 of the 1995 Session Laws, as amended by Chapter 2 of the 1995 Session Laws, Second Extra Session 1996, and Chapter 249 of the 1997 Session Laws, is amended by adding a new section to read:

"Sec. 5.3. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

Section 3. The Charter of the Town of Pleasant Garden, being Chapter 344 of the 1997 Session Laws, as amended by Chapter 205 of the 1997 Session Laws, 1998 Regular Session, is amended by adding a new section to read:

"Sec. 5-4. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

Section 4. The Charter of the Town of Oak Ridge, being Chapter 113 of the 1997 Session Laws, 1998 Regular Session, as amended by Chapter 217 of the 1997 Session Laws, 1998 Regular Session, is amended by adding a new section to read:

"Sec. 5.2. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law on the date it was ratified.

H.B. 776 **SESSION LAW 1999-58**

AN ACT AUTHORIZING THE CITY OF ROANOKE RAPIDS TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to

remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance.

Section 2. This act applies to the City of Roanoke Rapids only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law on the date it was ratified.

H.B. 1088 **SESSION LAW 1999-59**

AN ACT TO IMPROVE AND MODERNIZE THE TORRENS LAND TITLE REGISTRATION PROCEDURES OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 43-5 reads as rewritten:

"*§ 43-5. Fees of officers.*

The examiner ~~hereinbefore~~ provided for in G.S. 43-4 shall ~~receive, as may be allowed by the clerk, a minimum fee of five dollars ($5.00) for such examination of each title of property assessed upon the tax books at the amount of five thousand dollars ($5,000) or less; for each additional thousand dollars ($1,000) of assessed value of property so examined he shall receive fifty cents (50¢); for examination outside of the county he shall receive a reasonable allowance.~~ be compensated as provided in G.S. 1-408. All plats required by this Chapter shall comply with G.S. 47-30 and shall be recorded in the office of the register of deeds, and the recording fee shall be that specified in G.S. 161-10 for recording plats. ~~There shall be allowed to the register of deeds for copying the plot upon registration of titles book two dollars ($2.00) for the first page and one dollar ($1.00) for each succeeding page;~~ The fee for ~~copying or~~ recording new certificates under this ~~Chapter, two dollars ($2.00) for the first page and one dollar ($1.00) for each succeeding page;~~ Chapter shall be that specified in G.S. 161-10 for recording instruments in general. The fee for issuing the certificate and new certificates under this ~~Chapter, fifty cents (50¢) for each;~~ Chapter shall be that specified in G.S. 161-10 for issuing certified copies. The fee for noting the entries or memorandum required and for the entries noting the cancellation of mortgages and all other entries, if any, herein provided ~~for, fifty cents (50¢) for each entry. The county or other surveyor employed under the provisions of this Chapter shall not be allowed to charge more than forty cents (40¢) per hour for his time actually employed in making the survey and the map, except by agreement with the petitioner, but he shall be allowed a minimum fee of two dollars ($2.00).~~ for shall be that specified in G.S. 161-10 for recording instruments in general.

There shall be no other fees allowed of any nature except as herein provided, and the ~~bond~~ bonds of the ~~register,~~ register and clerk ~~and sheriff~~ shall be liable in case of any mistake, malfeasance, or misfeasance as to the

duties imposed upon them by this Chapter in as full a manner as such bond is now liable by law."

Section 2. G.S. 43-13 reads as rewritten:

"*§ 43-13. Manner of registration.*

(a) The ~~county commissioners of each county shall provide for the~~ register of deeds ~~in the county a book, to be called Registration of Titles, in which the register~~ shall ~~enroll,~~ register and index, as hereinafter provided, the decree of title before mentioned ~~and the copy of the plot contained in the petition,~~ and all subsequent transfers of title, and note all voluntary and involuntary transactions in any wise affecting the title to the land, authorized to be entered ~~thereon.~~ thereon in the real property records and indexes. The certificate of title and the entries for voluntary and involuntary transactions shall be indexed on the grantor index in the name 'Registered estate no. ....' and on the grantee index in the name of the registered owner. If the title be subject to trust, condition, encumbrance or the like, the words 'in trust,' 'upon condition,' 'subject to encumbrance,' 'life estate,' or like appropriate insertion shall indicate the fact and fix any person dealing with such certificate with notice of the particulars of such limitations upon the title as appears upon the ~~registry.~~ registry, and no new or additional certificate number shall be issued in such circumstances. No erasure, alteration, or amendment shall be made upon the registry after entry and issuance of a certificate of title except by order of a court of competent jurisdiction.

(b) When a voluntary or involuntary transaction is entered on a certificate of title, the certificate with the new entry shall be copied and recorded and indexed in the real property records and indexes. The copied certificate shall be indexed on the grantor index in the name 'Registered estate no. ....' and on the grantee index in the name of the registered owner."

Section 3. G.S. 43-31 reads as rewritten:

"*§ 43-31. When whole of land conveyed.*

Whenever the whole of any registered estate is transferred or conveyed the same shall be done by a transfer or conveyance ~~upon or~~ attached to the certificate substantially as follows:

~~A.B. and wife~~ The owners (giving the names of the parties owning land described in the certificate ~~and their wives~~) hereby, in consideration of ..... dollars, sell and convey to ~~C.Bill~~ the purchaser (giving name of purchaser) the lot or tract of land, as the case may be, described in the certificate of title hereto attached. The transfer shall be indexed on the grantor and grantee indexes in the same manner as deeds are indexed.

The same shall be signed and properly acknowledged by the parties ~~and their wives~~ and shall have the full force and effect of a deed in fee simple: Provided, that if the sale shall be in trust, upon condition, with power to sell or other unusual form of conveyance, the same shall be set out in the ~~deed,~~ transfer, and shall be entered upon the registration of titles book as hereinafter provided; that upon presentation of the transfer, together with the certificate of title, to the register of deeds, the transaction shall be duly noted and registered in accordance with the provisions of this Chapter, and certificate of title so presented shall be canceled and a new certificate with

the same number issued to the purchaser thereof, which new certificate shall fully refer by number and also by name of holder to former certificate just canceled."

Section 4. G.S. 43-32 reads as rewritten:

"*§ 43-32. Conveyance of part of registered land.*

The transfer of any part of a registered estate, either of an undivided interest therein or of a separate lot or parcel thereof, shall be made by an instrument of the transfer or conveyance similar in form to that herein provided for the transfer of the whole of any registered estate, to which shall be attached the certificate of title of such registered estate. In case of the transfer of an undivided interest in a registered estate, such instrument ~~or~~ of transfer or conveyance shall accurately specify and describe the extent and amount of the interest transferred and of the interest retained, respectively. In case of a transfer of a separate lot or parcel of a registered estate, such instrument of transfer or conveyance shall describe the lot or parcel transferred either by metes and bounds or by reference to the map or plat attached thereto, and shall in every case be accompanied by a map or plat having clearly indicated thereon the boundaries of the whole of the registered estate and of the lot or parcel to be ~~transferred.~~ transferred, but a new survey of the original registered estate shall not be required. The transfer shall be indexed on the grantor and grantee indexes in the same manner as deeds are indexed."

Section 5. G.S. 43-33 reads as rewritten:

"*§ 43-33. Duty of register of deeds upon part conveyance.*

Upon presentation to the register of deeds of an instrument of transfer or conveyance of an undivided interest in a registered estate, in proper form as above prescribed, it shall be his duty to cancel the certificate of title attached thereto and to issue to each owner a new certificate of title, each bearing the same number as the original certificate of title and accurately specifying and describing the extent and the amount of the interest retained or of the interest transferred, as the case may be. Upon presentation to the register of deeds of an instrument of transfer or conveyance of a separate lot or parcel of a registered estate, in proper form as above prescribed, it shall be his duty to cancel the certificate of the title attached thereto and to issue to each owner a new certificate of title bearing a new number and describing the separate lot or parcel retained or transferred, as the case may be, either by metes and bounds or by reference to a map or plat thereto attached. The register of deeds is responsible for determining that each new certificate of title contains a description of the property transferred or retained but not for verifying the accuracy of any description."

Section 6. G.S. 43-45 reads as rewritten:

"*§ 43-45. Docketed judgments.*

Whenever any judgment of the superior court of the county in which the registered estate is situated shall be duly docketed in the office of the clerk of the superior court, or any lien or notice of lis pendens is filed in the office of the clerk of the superior court, it shall be the duty of the ~~clerk~~ clerk, upon the request of any interested party, to certify the same to the register of deeds. The register of deeds shall ~~thereupon~~ enter upon the certificate of title, the date, and the amount of the judgment, and the same

shall be a lien upon such land as fully as such docketed judgment would be a lien upon unregistered lands of the judgment ~~debtor.~~ debtor, and the register of deeds is authorized to recover the certificate of title pursuant to G.S. 43-40. The register of deeds shall also enter notice of the judgment, lien, or lis pendens on the record copy of the certificate of title, and the encumbrance is valid against the registered estate from the time it is noted on the record copy."

Section 7. G.S. 43-46 reads as rewritten:

"*§ 43-46. Notice of delinquent taxes filed.*

It shall be the duty of the ~~sheriff or other collector of taxes or assessments of each county and town,~~ tax collector of each taxing unit, not later than ~~the first day of March in each year,~~ June 30 following the date the taxes became delinquent, to file an exact memorandum of the delinquency, if any, of any registered land for the nonpayment of the taxes or assessments thereon, including ~~penalty therefor,~~ interest, in the office of the register of deeds for registration; and if such officer fails to perform such duty, and there shall be subsequent to such day a transfer of the land as hereinbefore provided, the grantee shall acquire a good title free from any lien for such taxes and assessments, and ~~such sheriff or other~~ the collector ~~of taxes~~ and his sureties shall be liable for the payment of the taxes and assessments with the ~~penalty and~~ interest thereon. The register of deeds shall enter the notice of delinquency on the record copy of the certificate of title, and the tax lien shall be valid against the registered estate from the time it is noted on the record copy. The register of deeds shall enter the notice of cancellation of the tax lien on the record copy of the certificate of title upon presentation of satisfactory evidence of payment."

Section 8. G.S. 43-47 is repealed.

Section 9. G.S. 43-48 reads as rewritten:

"*§ 43-48. Foreclosure of tax lien. ~~Sale of unredeemed land; application of proceeds.~~*

~~If there be no redemption of land under the preceding section [G.S. 43-47], in accordance with the law, it shall be the duty of the sheriff or other collector of taxes in the county or town in which the land lies to sell the same at public auction for cash, first giving such notice of the time and place of sale as is prescribed for execution sales, and the proceeds of sale shall be applied, first, to the payment of all taxes and assessments then due to the State, county and town, with interest, penalty and costs; second, to the payment of all sums paid by any person who purchased at the former tax sale, with interest and the additional sum of five dollars ($5.00); third, to the payment of a commission to the officer making the sale of five per centum (5%) on the first three hundred dollars ($300.00) and two per centum (2%) on the residue of the proceeds; fourth, to the satisfaction of any liens other than the taxes and assessments registered against the land in the order of their priorities; fifth, and the surplus, if any, to the person in whose name the land was previous to sale for taxes, subject to redemption as provided herein, his heirs, personal representatives or assigns.~~ The lien for ad valorem taxes may be foreclosed and the property sold pursuant to G.S. 105-375. A note of the sale under this section shall be duly registered, and a certificate shall be entered and an owner's certificate issued in favor of the

purchaser in whom title shall be thereby vested as registered owner, in accordance with the provisions of this Chapter. Nothing in this section shall be so construed as to affect or divert the title of a tenant in reversion or remainder to any real estate which has been returned delinquent and sold on account of the default of the tenant for life in paying the taxes or assessments thereon."

Section 10. This act becomes effective January 1, 2000.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law upon approval of the Governor at 9:25 a.m. on the 19th day of May, 1999.

S.B. 1039 **SESSION LAW 1999-60**

AN ACT TO ESTABLISH A NEW MULTICAMPUS COMMUNITY COLLEGE TO SERVE ANSON AND UNION COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. There is established a new multicampus community college to serve the multiple-county administrative area of Anson and Union Counties. The initial board of trustees of the new college, which is appointed as provided in Section 2 of this act, shall select the name of the college.

Section 2. Notwithstanding G.S. 115D-12(a) and G.S. 115D-59, effective July 1, 1999, the initial board of trustees of the new college shall consist of 14 members appointed or elected as follows:

(1) Two residents of Anson County appointed by the Governor;
(2) Two residents of Union County appointed by the Governor;
(3) Two members elected by the Anson County Board of Education;
(4) Two members elected by the Union County Board of Education;
(5) Two members elected by the Anson County Commissioners;
(6) Three members elected by the Union County Commissioners; and
(7) The president of the student government or the chairman of the executive board of the student body of the community college, who shall serve as an ex officio nonvoting member.

The initial terms of one member appointed pursuant to subdivision (1) of this section, one member elected pursuant to subdivision (3), and one member elected pursuant to subdivision (6), shall expire June 30, 2001. The initial terms of one member appointed pursuant to subdivision (2) of this section, one member elected pursuant to subdivision (5), and one member elected pursuant to subdivision (6), shall expire June 30, 2002. The initial terms of one member appointed pursuant to subdivision (1) of this section, one member elected pursuant to subdivision (3), and one member elected pursuant to subdivision (4), shall expire June 30, 2003. The initial terms of one member appointed pursuant to subdivision (2) of this section, one member elected pursuant to subdivision (4), one member elected pursuant to subdivision (5), and one member elected pursuant to subdivision (6), shall expire June 30, 2004. Subsequent terms of office shall expire four years after appointment.

Section 3. Anson Community College is abolished. All functions, powers, duties, and obligations previously vested in Anson Community College are transferred to and vested in the new community college. The Anson Community College Board of Trustees shall serve as the board of trustees for the new college until the new board of trustees is appointed and qualified. The board of trustees for the new community college shall seek the transfer of the regional accreditation for Anson Community College to the new community college through the substantive change process of the Southern Association of Colleges and Schools.

Section 4. The State Board of Community Colleges may authorize the use of funds in the Anson-Union Community College Reserve to begin the operation of the new community college prior to July 1, 1999. Effective July 1, 1999, it is the intent of the General Assembly that the State Board repay the Reserve with funds appropriated for the operation of the new community college and that these funds remain available for expenditure for the new community college.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of May, 1999.

Became law upon approval of the Governor at 10:15 a.m. on the 19th day of May, 1999.

H.B. 244 **SESSION LAW 1999-61**

AN ACT TO ADD A STUDENT MEMBER TO THE STATE BOARD OF COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

Section 1. The introductory language of G.S. 115D-2.1(b) reads as rewritten:

"(b) The State Board of Community Colleges shall consist of ~~20~~ 21 members, as follows:"

Section 2. G.S. 115D-2.1(b) is amended by adding a new subdivision to read:

"(5) The person serving as president of the North Carolina Comprehensive Community College Student Government Association shall be an ex officio member of the State Board. If the president of the Association is unable for any reason to serve as the student member of the State Board, then pursuant to the constitution of the Association, the vice-president of the Association shall serve as the student member of the State Board. Any person serving as the student member of the State Board must be a student in good standing at a North Carolina community college. The student member of the State Board shall have all the rights and privileges of membership, except that the student member shall not have a vote."

Section 3. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 10th day of May, 1999.

Became law upon approval of the Governor at 10:30 a.m. on the 19th day of May, 1999.

S.B. 181 **SESSION LAW 1999-62**

AN ACT AUTHORIZING THE TOWN OF DALLAS, THE TOWN OF TABOR CITY, AND THE CITY OF WHITEVILLE TO ENACT A PROPERTY MAINTENANCE ORDINANCE AND TO ASSESS CERTAIN COSTS OF ENFORCEMENT AS A LIEN AGAINST THE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Dallas, being **Chapte**342 of the 1979 Session Laws, is amended by adding a new Article to read:

"ARTICLE V.

"Property Maintenance.

"Section 5.1. **Removal of Trash, Weeds; Lien.** The Town Board may require the owners of all premises, vacant or improved, to keep the same free from trash, obnoxious weeds, overgrowth, solid wastes, and stagnant water and may provide that if the owners fail to comply with any such requirement, an employee or contractor of the Town may go upon the owners' premises and perform any work that may be necessary to comply with such requirement, and the Town may charge the cost thereof against the premises upon which the work is performed.

The costs of any work performed under this section shall constitute a lien against the premises upon which the work is performed and may be collected in the same manner as taxes upon real property. The term 'cost' as used in this section shall include interest at the rate of eight percent (8%) per annum until the lien is paid. Interest does not accrue until a bill for the costs becomes overdue."

Section 2. The Town Council of the Town of Tabor City may require the owners of all premises, vacant or improved, to keep the same free from trash, obnoxious weeds, overgrowth, solid wastes, and stagnant water and may provide that if the owners fail to comply with any such requirement, an employee or contractor of the Town may go upon the owners' premises and perform any work that may be necessary to comply with such requirement, and the Town may charge the cost thereof against the premises upon which the work is performed. The costs of any work performed under this section shall constitute a lien against the premises upon which the work is performed and may be collected in the same manner as taxes upon real property. The term "cost" shall include interest at the rate of eight percent (8%) per annum until the lien is paid. Interest does not accrue until a bill for the costs becomes overdue.

Section 3. The City Council of the City of Whiteville may require the owners of all premises, vacant or improved, to keep the same free from trash, obnoxious weeds, overgrowth, solid wastes, and stagnant water and may provide that if the owners fail to comply with any such requirement, an employee or contractor of the City may go upon the owners' premises and perform any work that may be necessary to comply with such requirement,

and the Town may charge the cost thereof against the premises upon which the work is performed. The costs of any work performed under this section shall constitute a lien against the premises upon which the work is performed and may be collected in the same manner as taxes upon real property. The term "cost" shall include interest at the rate of eight percent (8%) per annum until the lien is paid. Interest does not accrue until a bill for the costs becomes overdue.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law on the date it was ratified.

S.B. 296 **SESSION LAW 1999-63**

AN ACT TO REPEAL THE PROVISIONS REGARDING SUPPLEMENTAL RETIREMENT FUNDS FOR FIREMEN IN THE CHARTER OF THE TOWN OF FOREST CITY.

The General Assembly of North Carolina enacts:

Section 1. Section 6.3 of the Charter of the Town of Forest City, as revised and consolidated by Section 1 of Chapter 209 of the 1981 Session Laws, is repealed.

Section 2. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law on the date it was ratified.

S.B. 652 **SESSION LAW 1999-64**

N ACT TO MAKE IT A CRIMINAL OFFENSE IN DURHAM COUNTY TO FRAUDULENTLY OBTAIN AMBULANCE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-111.2 reads as rewritten:

"*§ 14-111.2. Obtaining ambulance services without intending to pay therefor -- certain named counties.*

Any person who with intent to defraud shall obtain ambulance services without intending at the time of obtaining such services to pay, if financially able, any reasonable charges therefor shall be guilty of a Class 2 misdemeanor. A determination by the court that the recipient of such services has willfully failed to pay for the services rendered for a period of 90 days after request for payment, and that the recipient is financially able to do so, shall raise a presumption that the recipient at the time of obtaining the services intended to defraud the provider of the services and did not intend to pay for the services.

The section shall apply to Anson, Ashe, Beaufort, Caldwell, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Cumberland, Davie, Duplin, Durham, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Hoke, Hyde, Iredell, Macon, Mecklenburg, Montgomery,

Orange, Pasquotank, Person, Polk, Randolph, Robeson, Rockingham, Scotland, Stanly, Surry, Transylvania, Union, Vance, Washington, Wilkes and Yadkin Counties only."

Section 2. G.S. 14-111.3 reads as rewritten:

"§ 14-111.3. Making unneeded ambulance request in certain counties.

It shall be unlawful for any person or persons to willfully obtain or attempt to obtain ambulance service that is not needed, or to make a false request or report that an ambulance is needed. Every person convicted of violating this section shall be guilty of a Class 3 misdemeanor.

This section shall apply only to the Counties of Ashe, Buncombe, Cherokee, Clay, Cleveland, Davie, Duplin, Durham, Graham, Greene, Haywood, Hoke, Macon, Madison, Polk, Robeson, Washington, Wilkes and Yadkin."

Section 3. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law on the date it was ratified.

S.B. 709 **SESSION LAW 1999-65**

AN ACT TO ALLOW MECKLENBURG COUNTY TO ACQUIRE PROPERTY FOR USE BY ITS BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-158.1 reads as rewritten:

"*§ 153A-158.1. Acquisition and improvement of school property in certain counties.*

(a) Acquisition by County. -- A county may acquire, by any lawful method, any interest in real or personal property for use by a school administrative unit within the county. In exercising the power of eminent domain a county shall use the procedures of Chapter 40A. The county shall use its authority under this subsection to acquire property for use by a school administrative unit within the county only upon the request of the board of education of that school administrative unit and after a public hearing.

(b) Construction or Improvement by County. -- A county may construct, equip, expand, improve, renovate, or otherwise make available property for use by a school administrative unit within the county. The local board of education shall be involved in the design, construction, equipping, expansion, improvement, or renovation of the property to the same extent as if the local board owned the property.

(c) Lease or Sale by Board of Education. -- Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may, in connection with additions, improvements, renovations, or repairs to all or part of any of its property, lease or sell the property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

(d) Board of Education May Contract for Construction. -- Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into contracts for the erection of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located.

(e) Scope. -- This section applies to Alamance, Alexander, Alleghany, Ashe, Avery, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Columbus, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, Mecklenburg, Mitchell, Moore, Nash, New Hanover, Onslow, Orange, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Union, Vance, Wake, Watauga, Wayne, Wilkes, and Wilson Counties."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law on the date it was ratified.

H.B. 221 **SESSION LAW 1999-66**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTERS OF THE TOWN OF YAUPON BEACH AND THE TOWN OF LONG BEACH AND ESTABLISH A CHARTER FOR THE CONSOLIDATED TOWN OF OAK ISLAND.

The General Assembly of North Carolina enacts:

Section 1. The charters of the Town of Yaupon Beach and the Town of Long Beach are hereby revised and consolidated into the Charter for the Town of Oak Island to read as follows:

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Sec. 1.1. **Incorporation and General Powers.** The Town of Oak Island shall be a body politic and corporate under the name of the "Town of Oak Island", and shall be vested with all property and rights which now belong to the Towns of Yaupon Beach and Long Beach; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. **Exercise of Powers.** All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees shall be carried into execution as provided by this Charter, or, if this Charter makes no provisions, as provided by ordinance or resolution of the Town Council

and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. **Enumerated Power Not Exclusive.** The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Oak Island shall have and may exercise all applicable powers which are granted to municipal corporations by the general laws of North Carolina and all powers which are granted by this Charter.

"Sec. 1.4. **Referendum Not Required.** Notwithstanding any other provision of law, the consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island shall not require a referendum but shall be governed by the provisions of this act.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. **Existing Corporate Boundaries.** The corporate limits of the Town of Oak Island shall be the combined corporate limits of the Town of Yaupon Beach and the Town of Long Beach existing at the time of enactment of this Charter and the effective date of consolidation, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon changes, alteration of the corporate limits pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"Sec. 2.2. **Pending Annexations.** Matters pertaining to the annexation of property instituted by the Town of Yaupon Beach under an ordinance adopted September 14, 1998, shall become the responsibility of the consolidated Town of Oak Island as if begun originally by the Town of Oak Island. Any annexation action instituted or pending by the Town of Yaupon Beach and Town of Long Beach prior to the effective date of consolidation into the Town of Oak Island shall be as if instituted by the Town of Oak Island and the prior actions are hereby ratified. This section shall not be construed as prohibiting any annexation proceedings occurring between the date of enactment of this act and the effective date of consolidation.

"Sec. 2.3. **Extension of Corporate Boundaries.** All extensions of the corporate boundaries shall be governed by the General Statutes.

"ARTICLE III. TRANSITIONAL PROVISIONS.

"Sec. 3.1. **Action Prior to Consolidation.** (a) The following actions by the governing bodies of the Town of Yaupon Beach and the Town of Long Beach under subsections (b) and (c) of this section are authorized prior to the effective date of consolidation.

(b) The Town of Yaupon Beach and the Town of Long Beach shall take whatever action is necessary to assure delivery of services as of the effective date of consolidation of the two Towns into the Town of Oak Island. This includes effecting any interim planning, work assignments, and coordination required to effect a consolidated workforce and support operation as of the effective date of consolidation.

(c) The Town of Yaupon Beach and the Town of Long Beach shall take necessary action to consolidate accounting and budgeting systems to effect

the consolidation of the Towns by the effective date of consolidation. Notwithstanding other provisions of the Local Government Budget and Fiscal Control Act, the Towns may prepare a budget for the consolidated Town of Oak Island in a manner and schedule agreed to by both Towns. Adoption of a budget for the consolidated Town of Oak Island shall be approved by both governing bodies prior to the effective date of consolidation and shall be effective on the date of consolidation. Audits of existing Town accounts shall be performed as of the end of the last fiscal year and prior to consolidation.

"Sec. 3.2. **Effective Date of Consolidation; Status of Governing Bodies.** Subject to the conditions and provisions of this act, the Town of Yaupon Beach and the Town of Long Beach are consolidated into the Town of Oak Island effective at 12:01 a.m., on July 1, 1999. The governing body of the Town of Oak Island will be the Interim Town Council and subsequent Councils as prescribed in this act. The terms of office of the governing bodies of the Town of Yaupon Beach and the Town of Long Beach will cease as of 12:00 midnight on June 30, 1999.

"Sec. 3.3. **Operational Procedures Upon Consolidation.** Upon the date of consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island:

(1) All property, real and personal and mixed, including accounts receivable, belonging to the Town of Yaupon Beach and the Town of Long Beach shall vest in, belong to, and be the property of the Town of Oak Island. The governing body of the Town of Oak Island will take such actions and execute such documents as will carry into effect the provisions and the intent of this section;

(2) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Yaupon Beach and the Town of Long Beach shall vest in and remain and inure to the benefit of the Town of Oak Island;

(3) All taxes, assessments, water or sewer charges, and any other charges or fees, owing to the Town of Yaupon Beach and the Town of Long Beach shall be owed to and collected by the Town of Oak Island;

(4) All actions, suits, and proceedings pending against, or having been instituted by the Town of Yaupon Beach and the Town of Long Beach shall not be abated by the legislative act allowing consolidation, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if consolidation had not occurred, and the Town of Oak Island shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Yaupon Beach and the Town of Long Beach and shall pay or cause to be paid any judgments rendered against the Town of Yaupon Beach and the Town of Long Beach, its governing board and officials acting in their official capacity, in such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding;

(5) All obligations of the Town of Yaupon Beach and the Town of Long Beach, including outstanding indebtedness, shall be

assumed by the Town of Oak Island and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the Town of Oak Island and the financial resources of the Town of Oak Island shall be deemed to be pledged for the punctual payment of all such obligations and indebtedness;

(6) All ordinances of the Town of Yaupon Beach and the Town of Long Beach shall continue in full force and effect within the area to which they apply until the effective date of consolidation as ordinances until modified by the Town of Oak Island governing body to be effective uniformly throughout the consolidated corporate limits and, where applicable, extraterritorial jurisdiction;

(7) All franchises heretofore granted by the Town of Yaupon Beach and the Town of Long Beach which are still in force shall continue as valid franchises of the Town of Oak Island for purposes granted within the area formerly comprising the Town of Yaupon Beach and the Town of Long Beach until modified by the Town of Oak Island governing body to be effective uniformly throughout the consolidated corporate limits of the Town of Oak Island;

(8) The Town of Oak Island shall assume responsibility for all current and future liabilities of the Town of Yaupon Beach and the Town of Long Beach for unemployment insurance benefit charges under G.S. 96-9(f)(1);

(9) Extraterritorial Jurisdiction (ETJ) areas of the Town of Yaupon Beach and the Town of Long Beach under Article 19 of Chapter 160A of the General Statutes in effect on the date of consolidation shall be extraterritorial areas of the Town of Oak Island;

(10) All property that had a tax situs in the Town of Yaupon Beach and the Town of Long Beach on January 1, 1999, shall be considered to have a tax situs in the Town of Oak Island for the appropriate fiscal year, and any property properly listed for taxation in the Town of Yaupon Beach and the Town of Long Beach is properly listed for the Town of Oak Island; and

(11) Prior local acts that apply to the Town of Yaupon Beach and the Town of Long Beach, that are not inconsistent with the provisions of this act, shall remain in force in the consolidated Town of Oak Island from and after the date of consolidation.

"ARTICLE IV. MAYOR AND TOWN COUNCIL.

"Sec. 4.1. **Interim Mayor and Council and Succession of Interim Council Members and Mayors.** (a) Upon enactment of this act and on the effective date of consolidation, an interim Town Council shall serve until elections are held in accordance with provisions of this Charter. The following individuals are hereby named to serve as the Interim Council: Linda W. Franklin, Roy R. Johnson, Richard D. Marshall, William S. Smith, Martin John Wozniak, Kevin M. Bell (or the person appointed to succeed him on the Long Beach Town Council), Horace Collier, James H. Locke, H. Michael Oxford, Mary B. Snead, J.K. Somers; Joan P. Altman,

Co-Mayor, and Dorothy Kelly, Co-Mayor. The succession of Mayor and Council Member positions shall occur in a rotation prescribed as follows:

Elected Officials July 1999 - November 1999

Town Area	Seat	Name	Term Expires
Long Beach	Co-Mayor	Altman(or successor)	2001
Yaupon Beach	Co-Mayor	Kelly(or successor)	2001
Yaupon Beach	Council Member	Smith(or successor)	2001
Yaupon Beach	Council Member	Wozniak(or successor)	2001
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers(or successor)	2001
Long Beach	Council Member	Locke(or successor)	2001
Yaupon Beach	Council Member	Franklin(or successor)	1999
Yaupon Beach	Council Member	Marshall(or successor)	1999
Yaupon Beach	Council Member	Johnson(or successor)	1999
Long Beach	Council Member	Oxford(or successor)	1999
Long Beach	Council Member	Collier(or successor)	1999
Long Beach	Council Member	Snead(or successor)	1999

(b) November 1999 Election: Two Council Member seats will be elected, one from Yaupon Beach and one from Long Beach. This preserves equal representation. From November 1999 on, there will be eight Council Members. Mayor Altman will serve until November 2001.

Elected Officials November 1999 - November 2001

Town Area	Seat	Name	Term Expires
At Large	Mayor	Altman	2001
Yaupon Beach	Mayor Pro Tempore	Kelly	2001
Yaupon Beach	Council Member	Smith	2001
Yaupon Beach	Council Member	Wozniak	2001
Yaupon Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers	2001
Long Beach	Council Member	Locke	2001
Long Beach	Council Member	Elected 1999	2003

(c) November 2001 Election: Two Council Members from Long Beach will be elected to four-year terms. Two Council Members from Yaupon Beach will be elected to four-year terms. One Council Member from Long Beach will be elected to a two-year term. One Council Member from Yaupon Beach will be elected to a two-year term. The Mayor will be elected at large for a two-year term. The Mayor Pro Tempore will be elected by Council Members at December 2001 Town Council meeting.

Elected Officials November 2001 - November 2003

Town Area	Seat	Name	Term Expires
At Large	Mayor	Elected 2001	2003
Yaupon Beach	Council Member	Elected 1999	2003
Yaupon Beach	Council Member	Elected 2001	2003
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Elected 2001	2003
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005

(d) November 2003 Election: Four Council Members elected at large to four-year terms. Mayor elected at large to two-year term.

Elected Officials November 2003 - November 2005

Town Area	Seat	Name	Term Expires
At Large	Mayor	Elected 2003	2005
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007

(e) November 2005 Election: Four Council Members elected at large to four-year terms. Mayor elected at large to two-year term. Beginning in November 2005, all seats will be elected at large.

"Sec. 4.2. **Composition of Town Council.** The Town Council shall consist of eight members to be elected by the qualified voters of the Town at large in the manner provided by Article IV.

"Sec. 4.3. **Terms; Qualifications; Vacancies.** (a) The members of the Town Council shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as a member of the Town Council, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Town Council members shall refuse to qualify, or if there shall be any vacancy in the Town Council after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Town Council member so appointed shall have the same authority and powers as if regularly elected.

"Sec. 4.4. **Mayor and Mayor Pro Tempore.** Beginning with the regular municipal election following succession of the Interim Council as provided by this act, and every two years thereafter, there shall be elected a Mayor by the qualified voters of the Town voting at large. The Mayor shall serve for a term of two years. A vacancy in the office of Mayor shall be filled for the unexpired term by a person appointed by the Town Council. The Mayor shall take the oath of office before entry upon the duties of his office. Candidates for Mayor shall file a notice of candidacy as is required by candidates for Town Council.

The Mayor shall be the official head of the Town government, shall preside at all meetings of the Town Council, but shall have the right to vote when there are equal numbers of votes in the affirmative and in the negative. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Town Council.

"Sec. 4.4. **Compensation of Mayor and Town Council Members.** The Mayor and Town Council shall receive for their services such salary and compensation as the Town Council shall determine in accordance with the General Statutes.

"Sec. 4.5. **Organization of Town Council; Oaths of Office.** The Town Council shall meet and organize for the transaction of business at a time established by the General Statutes. Before entering upon their offices, each Town Council member shall take, subscribe, and have entered upon the minutes of the Town Council the following oath of office: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Town Council member, on which I am about to enter, according to my best skill and ability; so help me, God."

"Sec. 4.6. **Meetings of Town Council.** (a) The Town Council shall fix suitable times for its regular meeting, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Town Council members, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the Town Council shall be open to the public. The Town Council shall not by closed session or otherwise formally consider or vote upon any question in private session.

"Sec. 4.7. **Quorum; Votes.** (a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members of the Town Council shall be necessary to adopt any ordinance, or any resolution or

motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting.

"Sec. 4.8. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Town Council. The enacting clause of all ordinances shall be "Be it ordained by the Town Council of the Town of Oak Island." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE V. ELECTION PROCEDURE.

"Sec. 5.1. **Regular Municipal Elections.** At the regular municipal election to be held following the succession of the Interim Council, and every two years thereafter, four members of the Town Council shall be elected to serve for four-year terms.

"Sec. 5.2. **Voting.** Election of the Mayor and Town Council member shall be by the nonpartisan plurality election method prescribed by G.S. 163-192, and shall be conducted as provided by General Statutes.

"Sec. 5.3. **Regulation of Elections.** All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided.

"ARTICLE VI. TOWN MANAGER.

"Sec. 6.1. **Appointment; Compensation.** The Town Council shall appoint an officer whose title shall be Town Manager and who shall be the chief executive officer of the Town and the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Town Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside therein during his tenure of office. No person elected as a member of the Town Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Town Council and shall receive such salary as the Town Council shall fix. In case of the absence or disability of the Manager, the Town Council may designate a qualified administrative officer of the Town to perform the duties of the Manager during such absence or disability.

"Sec. 6.2. **Chief Administrator**. The Manager shall be the chief administrator of the Town. The Manager shall be responsible to the Council for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

(1) The Manager shall appoint and suspend or remove all city officers and employees not elected by the people and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt. Before appointing or removing officers or department heads he

shall consult with Council, but retain the authority to take whatever personnel action he deems proper.

(2) The Manager shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the Council, except as otherwise provided by law. No member of Council shall direct or request the appointment of any person to, or removal from, office by the Town Manager; nor give orders or directions to any subordinate of the Town Manager, either publicly or privately, without the permission of the Town Manager. On the other hand, members of Council shall be free to make work-related inquiries of any employee, to be available for discussion, and to bring to the attention of the Town Manager any facts of which he may not be aware which may require remedial action.

(3) The Manager shall attend all meetings of the Council and recommend any measures that he deems expedient.

(4) The Manager shall see that all laws of the State, the Town Charter, and the ordinances, resolutions and regulations of the Council are faithfully executed within the Town.

(5) The Manager shall prepare and submit the annual budget and capital program to the Council.

(6) The Manager shall annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.

(7) The Manager shall make any other reports that the Council may require concerning the operations of the Town departments, offices, and agencies subject to his direction and control.

(8) The Manager shall perform any other duties that may be required or authorized by the Council.

"ARTICLE VII. TOWN ATTORNEY.

"Sec. 7.1. **Appointment; Qualification; Term; Compensation.** The Town Council shall appoint a Town Attorney who shall be an Attorney-at-law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Town Council and shall receive such compensation as the Town Council shall determine.

"Sec. 7.2. **Duties of Town Attorney.** It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Town Council, Town Manager, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises, and other instruments with which the Town may be concerned; to attend all meetings of the Town Council; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VIII. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 8.1. **Town Clerk.** The Town Manager may appoint a Town Clerk to keep a journal of the proceedings of the Town Council and to maintain in

a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Manager may direct.

"Sec. 8.2. **Town Tax Collector.** The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees, and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 8.3. **Consolidation of Functions.** The Town Manager may, in his discretion, consolidate the offices of Town Clerk and Town Tax Collector, or may assign the functions of any one of these offices to the holder or holders of any other of these offices. The Town Manager may also, in his discretion, himself perform all or any part of the functions of any of the named offices, in lieu of appointing another person to perform the same.

"ARTICLE IX. FINANCE.

"Sec. 9.1. **Issuance of Bonds.** The Town may issue bonds for the purposes and in the manner prescribed by the General Statutes relating to the issuance of bonds by municipalities.

"Sec. 9.2. **Purchases and Contracts.** Purchases of apparatus, supplies, material, and equipment, and contracts for construction or repair work shall be made in accordance with the General Statutes relating thereto.

"ARTICLE X. TITLE TO PROPERTIES.

"Sec. 10.1. **Title to Properties Used for Certain Purposes.** In the absence of any contracts with the Town in relation to the lands used or occupied by it for the purposes of streets, sidewalks, alleys, or other public works of the Town signed by the owner thereof or his agent, it shall be conclusively presumed that said land has been granted to the Town by the owner or owners, and the Town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall make claim or demand in writing addressed to the Town Council within two years following the date when such land was taken, he or they shall be forever barred from recovering such land or having any compensation therefor; provided, nothing herein shall affect the rights of persons under disabilities until two years following removal thereof.

Section 2. Effective July 1, 1999, the Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach will be consolidated into the Alcoholic Beverage Control Board of the Town of Oak Island. The Alcoholic Beverage Control Board of the Town of Oak Island shall be appointed by the Town Council of the Town of Oak Island and shall consist of three members. The Chair of the Alcoholic Beverage Control Board of the Town of Oak Island shall be appointed by the Oak Island Town Council. The assets and liabilities of the Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach shall become the assets and liabilities of the Alcoholic Beverage Control Board of the Town of Oak Island as of July 1, 1999. The individual Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach shall take whatever actions are necessary to effectuate the consolidation of

the two Boards and Systems between the adoption of this act and July 1, 1999, so that consolidation will be accomplished on July 1, 1999.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law on the date it was ratified.

H.B. 378 **SESSION LAW 1999-67**

AN ACT TO AUTHORIZE THE ROANOKE RAPIDS HOUSING AUTHORITY AND THE ROANOKE RAPIDS REDEVELOPMENT COMMISSION TO CONVEY BY PRIVATE SALE REAL PROPERTY LOCATED WITHIN A REDEVELOPMENT PROJECT AREA.

The General Assembly of North Carolina enacts:

Section 1 The Roanoke Rapids Housing Authority and the Roanoke Rapids Redevelopment Commission may sell, exchange, or otherwise transfer real property located within a redevelopment project area as provided in G.S. 160A-457(4).

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law on the date it was ratified.

H.B. 477 **SESSION LAW 1999-68**

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF CAMPUS LAW ENFORCEMENT AGENCIES AT COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 115D is amended by adding the following new section to read:

"*§ 115D-21.1. Campus law enforcement agencies.*

(a) The board of trustees of any community college may establish a campus law enforcement agency and employ campus police officers. These officers shall meet the requirements of Chapter 17C of the General Statutes, shall take the oath of office prescribed by Article VI, Section 7 of the Constitution, and shall have all the powers of law enforcement officers generally. The territorial jurisdiction of a campus police officer shall include all property owned or leased to the community college employing the officer and that portion of any public road or highway passing through the property and immediately adjoining it, wherever located.

(b) The board of trustees of any community college that establishes a campus law enforcement agency under subsection (a) of this section may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into the municipality's jurisdiction and to determine the circumstances under which this extension of authority may be granted.

(c) The board of trustees of any community college that establishes a campus law enforcement agency under subsection (a) of this section may enter into joint agreements with the governing board of any county, with the consent of the sheriff, to extend the law enforcement authority of campus police officers into the county's jurisdiction and to determine the circumstances under which this extension of authority may be granted."

Section 2. G.S. 15A-402(f) reads as rewritten:

"(f) Campus Police Officers, Immediate and Continuous Flight. -- A campus police officer: (i) appointed by a campus law-enforcement agency established pursuant to G.S. 116-40.5(a); ~~or (ii)~~ (ii) appointed by a campus law enforcement agency established under G.S. 115D-21.1(a); or (iii) commissioned by the Attorney General pursuant to Chapter 74E and employed by a college or university which is licensed, or exempted from licensure, by G.S. 116-15 may arrest a person outside his territorial jurisdiction when the person arrested has committed a criminal offense within the territorial jurisdiction, for which the officer could have arrested the person within that territory, and the arrest is made during such person's immediate and continuous flight from that territory."

Section 3. G.S. 74E-6(f) reads as rewritten:

"(f) Campus Option. -- Notwithstanding any of the provisions of this Chapter, the Board of Trustees of any constituent institution of The University of North Carolina may elect to have its officers certified under Chapter 17C ~~or~~ and Chapter 116 of the General Statutes and the board of trustees of any community college may elect to have its officers certified under Chapter 17C and Chapter 115D of the General Statutes rather than requesting certification as a company police agency and company police commission pursuant to the provisions of this Chapter."

Section 4. G.S. 160A-288(d) reads as rewritten:

"(d) For purposes of this section, the following shall be considered the equivalent of a municipal police department:

(1) Campus law-enforcement agencies established pursuant to G.S. 115D-21.1(a) or G.S. 116-40.5(a); and

(2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E; and

(3) Law enforcement agencies operated or eligible to be operated by a municipality pursuant to G.S. 63-53(2)."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of May, 1999.

Became law upon approval of the Governor at 4:25 a.m. on the 12th day of May, 1999.

S.B. 702 **SESSION LAW 1999-69**

AN ACT TO ALLOW RESTORATION OF ZONING AUTHORITY OF THE TOWN OF MATTHEWS AS TO CERTAIN PROPERTY IF MECKLENBURG COUNTY DISPOSES OF IT.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 161 of the 1991 Session Laws reads as rewritten:

"Sec. 4. The authority granted by this act shall not be exercised with respect to the property acquired by Mecklenburg County from Hazeline Massey, tax parcel number 215-062-02; the property acquired by Mecklenburg County from National Facilities Corporation, tax parcel number 215-081-15; or the property acquired by Mecklenburg County from Lester H. Yandle Jr., tax parcel numbers 215-062-01 and 215-061-06. As owner and user of the property exempted in this section, Mecklenburg County shall not cause the elevation of the property to be increased more than 25 feet above the highest point existing on the property on the date of ratification of this act, unless the increase is approved in a resolution adopted by the Board of Commissioners of the Town of Matthews. This section does not apply to any property when it is sold or otherwise disposed of by Mecklenburg County. The Town of Matthews may adopt, in accordance with law, a zoning classification for the property at any time, but such classification shall not become effective until the property is sold or disposed of by Mecklenburg County."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law on the date it was ratified.

S.B. 719 **SESSION LAW 1999-70**

AN ACT ALLOWING THE CITY OF DURHAM AND THE COUNTY OF DURHAM TO CONSIDER LIMITATIONS ON USES AS REQUESTED IN THE DEVELOPMENT PLANS SUBMITTED FOR REZONINGS AND TO MAKE OTHER CHANGES REGARDING THE CONSIDERATION OF DEVELOPMENT PLANS.

The General Assembly of North Carolina enacts:

Section 1. Section 92 of Chapter 671 of the 1975 Session Laws, being the Charter of the City of Durham, as amended by Chapter 380 of the 1991 Session Laws, reads as rewritten:

"Sec. 92. Development Plans and Site Plans. -- In exercising the zoning power granted to municipalities by G.S. 160A-381, the City Council may require that a development plan showing the proposed development of property be submitted with any request for rezoning of such property. The City Council may consider such development plan in its deliberations and may require that any site plan subsequently submitted be in conformity with any such approved development plan. The City Council may also consider any limitations an applicant who submits a development plan may propose on the number, range, or type of uses to be made of the property and may limit its consideration of uses to those proposed uses. Such use proposals, where approved, shall be binding as part of the zoning of the property. In considering development plans and developer-proposed use limitations, the

City Council shall use the legislative public hearing procedures applicable to general use district rezonings.

In addition, the Council is authorized to require that a site plan be submitted and approved prior to the issuance of any building permit. The Council may specify the information to be set forth in a site plan and may require that such site plan be prepared by a professional engineer, architect, or land surveyor licensed to practice in North Carolina. The Council may prescribe procedures for the review of such site plans to ~~insure~~ ensure that development of property shall conform to applicable zoning and building laws and regulations or any other relevant law or regulation. The Council may require that site plans be in conformity with previously approved development plans for the same property. In approving development ~~plans and~~ plans, site plans, and subdivision plats, the City may require that on-site and off-site street and utility rights-of-way be dedicated to the public, that necessary street and utility improvements be constructed, and that provision be made for recreational space and facilities where appropriate."

Section 2. Section 1 of Chapter 950 of the 1989 Session Laws, reads as rewritten:

"Section 1. (a) Development Plans and Site Plans. In exercising the zoning power granted to counties by G.S. 153A-340, G.S. 153A-341, and G.S. 153A-342, the Durham County Board of Commissioners may require a development plan showing the proposed development of property be submitted along with any request for the rezoning of that property. The Board may consider the development plan in its deliberations on the rezoning action. The Board may require that any site plan submitted after the rezoning action conform with the previously approved development plans for the same property. The Board may adopt procedures and guidelines for the preparation and presentation of these development plans. The Board may also consider any limitations an applicant who submits a development plan may propose on the number, range, or type of uses to be made of the property and may limit its consideration of uses to those proposed uses. Such use proposals, where approved, shall be binding as part of the zoning of the property. In considering development plans and developer-proposed use limitations, the Board shall use the legislative public hearing procedures applicable to general use district rezonings.

(b) The Durham County Board of Commissioners may require that a site plan be submitted and approved prior to the issuance of any building permit. The Board may specify the information to be included in a site plan and may require that the site plan be prepared by a professional engineer, architect, surveyor, or landscape architect licensed to practice in North Carolina. The Board may adopt procedures for the preparation and review of the site plans to ~~insure~~ ensure that development of property shall conform to applicable zoning and building laws and regulations. The Board may require that site plans conform with previously approved development plans for the same property. In approving development plans, site plans, and subdivision plats, the Board may require that on-site and off-site street and utility rights-of-way be dedicated to the public, that necessary street and utility improvements be constructed, and that provision be made for recreational space and facilities where appropriate."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law on the date it was ratified.

H.B. 722 **SESSION LAW 1999-71**

AN ACT TO ALLOW MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO PURCHASE CERTAIN PART-TIME SERVICE RENDERED WHILE FULL-TIME STUDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4(p1) reads as rewritten:

"(p1) Part-Time Service Credit. --

(1) Notwithstanding any other provision of this Chapter, upon completion of five years of membership service, any member may purchase service previously rendered as a part-time teacher or employee of an employer as defined in G.S. 135-1(11) or G.S. 128-21(11), except for temporary or part-time service rendered while a full-time student in pursuit of a degree or diploma in a degree-granting program. Payment shall be made in a single lump sum in an amount equal to the full actuarial cost of providing credit for the service, together with interest and an administrative fee, as determined by the Board of Trustees on the advice of the Retirement System's actuary. Notwithstanding the provisions of G.S. 135-4(b), the Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year, as based on compensation, is equivalent to one year of service in proportion to "earnable compensation", but in no case shall more than one year of service be creditable for all service in one year. Service rendered for the regular school year in any district shall be equivalent to one year's service. Notwithstanding the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

(2) Under all requirements and conditions set forth in the preceding subdivision of this subsection (p1), except for the requirement that the completion of five years of membership service be subsequent to service rendered as a part-time teacher or employee of the State, any member with five or more years of membership service standing to his credit may purchase additional membership service for service rendered as a part-time teacher or employee of the State if (i) the member terminates or has terminated employment in any capacity as a teacher or employee of the State, (ii) the purchase of the additional membership service causes the member to become

eligible to commence an early or service retirement allowance, and (iii) the member immediately elects to commence retirement and become a beneficiary.

(3) Under all the requirements and conditions set forth in subdivision (1) of this subsection, except for the condition that part-time service rendered when a full-time student in pursuit of a degree or diploma in a degree-granting program is not eligible for purchase, any member with five or more years of membership service standing to the member's credit may purchase creditable service for service rendered as a part-time teacher or employee of the State if that service was rendered on a permanent part-time basis and required at least 20 hours of service per week."

Section 2. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 12th day of May, 1999.

Became law upon approval of the Governor at 9:15 a.m. on the 21st day of May, 1999.

S.B. 939 **SESSION LAW 1999-72**

AN ACT TO REVISE THE REQUIREMENTS OF BANK DIRECTORS, TO CONFORM CERTAIN NORTH CAROLINA BANKING LAWS TO FEDERAL BANKING REGULATIONS, AND TO REMOVE THE SUNSET PROVISION WITH REGARD TO DE NOVO INTERSTATE BRANCH BANKING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-80 reads as rewritten:

"*§ 53-80. Qualifications of directors.*

Every director of a bank doing business under this Chapter shall be the owner and holder of shares of stock in the bank representing not less than one thousand dollars ($1,000) book value as of the last business day of the calendar year immediately prior to the election of such director. For the purpose of this section, book value shall consist of common capital stock, unimpaired surplus, undivided profits, and reserves for contingencies if any such reserves are segregations of capital. Where directors are appointed during the interval between stockholders' meetings pursuant to the provisions of G.S. 53-67, such directors shall hold the required qualifying shares as of the time of their appointment. Notwithstanding the proviso at the end of this section, where the bank is a wholly owned subsidiary, the required qualifying shares shall be shares in the parent corporation, whether or not the bank was doing business before February 18, 1921. And every such director shall hold ~~such~~ the shares in ~~his~~ the director's own name unpledged and unencumbered in any way. Provided, however, shares of the bank or parent corporation stock held in an individual retirement account or other retirement account of a bank director, over which the director has investment authority, shall be considered qualifying shares for the purpose of this section. The office of any director at any time violating any of the provisions of this section shall immediately become vacant, and the

remaining directors shall declare ~~his~~ that director's office vacant and proceed to fill such vacancy forthwith. Not less than ~~three-fourths~~ one-half of the directors of every bank doing business under this Chapter shall be residents of the State of North Carolina: Provided, that as to banks doing business before February 18, 1921, the requirements as to amount of stock owned by a director shall not apply unless the Commissioner of Banks shall rule that ~~such~~ the director is not bona fide discharging ~~his~~ the director's duties."

Section 2. G.S. 53-91.2 reads as rewritten:

"*§ 53-91.2. Loans to executive officers.*

No bank may extend credit to any of its executive officers nor a firm or partnership of which such executive officer is a member, nor a company in which such executive officer owns a controlling interest, unless the extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not employed by the bank, and provided further that the extension of credit does not involve more than the normal risk of repayment. This general prohibition shall not prevent an executive officer from obtaining loans on terms and conditions that are available to all employees of the bank. For the purposes of this section, the term "executive officer" shall mean an officer who has authority to participate in major policy-making functions of the bank. Provided further, the maximum amount of such loans shall be that as prescribed by applicable federal banking regulations."

Section 3. G.S. 53-224.14 reads as rewritten:

"*§ 53-224.14. Requirement of notice and other conditions.*

(a) An out-of-state bank desiring to establish and maintain a de novo branch or to acquire a branch in this State shall provide written notice of the proposed transaction to the Commissioner not later than the date on which the bank applies to the responsible federal bank supervisory agency for approval to establish or acquire the branch. The filing of such notice shall be accompanied by the filing fee prescribed by the Commissioner by regulation.

(b) The out-of-state bank shall comply with the applicable requirements of Article 15 of Chapter 55 of the North Carolina General Statutes.

(c) ~~Prior to June 1, 1999, an~~ An out-of-state bank may establish and maintain a de novo branch or may establish and maintain a branch through acquisition of a branch if:

(1) In the case of a de novo branch, the laws of the home state of the out-of-state bank permit North Carolina banks to establish and maintain de novo branches in that state under substantially the same terms and conditions as herein set forth; and

(2) In the case of a branch established through the acquisition of a branch, the laws of the home state of the out-of-state bank permit North Carolina banks to establish and maintain branches in that state through the acquisition of branches under substantially the same terms and conditions as herein set forth."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of May, 1999.

Became law upon approval of the Governor at 9:16 a.m. on the 21st day of May, 1999.

S.B. 245 **SESSION LAW 1999-73**

AN ACT TO ENACT REVISED ARTICLE 5 OF THE UNIFORM COMMERCIAL CODE AND CONFORMING AND MISCELLANEOUS AMENDMENTS TO THE UNIFORM COMMERCIAL CODE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 25 of the General Statutes is rewritten to read:

"ARTICLE 5.
"Letters of Credit.

"*§ 25-5-101. Short title.*

This Article may be cited as Uniform Commercial Code -- Letters of Credit.

"<fot=2>§ 25-5-102. Definitions.

(a) In this Article:

(1) 'Adviser' means a person who, at the request of the issuer, a confirmer, or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed, or amended.

(2) 'Applicant' means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer.

(3) 'Beneficiary' means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit.

(4) 'Confirmer' means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another.

(5) 'Dishonor' of a letter of credit means failure timely to honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit.

(6) 'Document' means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion (i) which is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in G.S. 25-5-108(e) and (ii) which is capable of being examined for compliance with the terms and conditions of the letter of credit. A document may not be oral.

(7) 'Good faith' means honesty in fact in the conduct or transaction concerned.

(8) 'Honor' of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value. Unless the letter of credit otherwise provides, 'honor' occurs:
a. Upon payment;
b. If the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or
c. If the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

(9) 'Issuer' means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes.

(10) 'Letter of credit' means a definite undertaking that satisfies the requirements of G.S. 25-5-104 by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value.

(11) 'Nominated person' means a person whom the issuer (i) designates or authorizes to pay, accept, negotiate, or otherwise give value under a letter of credit and (ii) undertakes by agreement or custom and practice to reimburse.

(12) 'Presentation' means delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit.

(13) 'Presenter' means a person making a presentation as or on behalf of a beneficiary or nominated person.

(14) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) 'Successor of a beneficiary' means a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator, and receiver.

(b) Definitions in other Articles of this Chapter applying to this Article and the sections in which they appear are:

'Accept' or 'Acceptance'	G.S. 25-3-409
'Value'	G.S. 25-3-303, G.S. 25-4-209.

(c) Article 1 of this Chapter contains certain additional general definitions and principles of construction and interpretation applicable throughout this Article.

"§ 25-5-103. Scope.

(a) This Article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

(b) The statement of a rule in this Article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this Article.

(c) With the exception of this subsection, subsections (a) and (d) of this section, G.S. 25-5-102(a)(9) and (10), 25-5-106(d), and 25-5-114(d), and except to the extent prohibited in G.S. 25-1-102(3) and G.S. 25-5-117(d), the effect of this Article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this Article.

(d) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

"§ *25-5-104. Formal requirements.*

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a record and is authenticated (i) by a signature or (ii) in accordance with the agreement of the parties or the standard practice referred to in G.S. 25-5-108(e).

"§ *25-5-105. Consideration.*

Consideration is not required to issue, amend, transfer, or cancel a letter of credit, advice, or confirmation.

"§ *25-5-106. Issuance, amendment, cancellation, and duration.*

(a) A letter of credit is issued and becomes enforceable according to its terms against the issuer when the issuer sends or otherwise transmits it to the person requested to advise or to the beneficiary. A letter of credit is revocable only if it so provides.

(b) After a letter of credit is issued, rights and obligations of a beneficiary, applicant, confirmer, and issuer are not affected by an amendment or cancellation to which that person has not consented except to the extent the letter of credit provides that it is revocable or that the issuer may amend or cancel the letter of credit without that consent.

(c) If there is no stated expiration date or other provision that determines its duration, a letter of credit expires one year after its stated date of issuance or, if none is stated, after the date on which it is issued.

(d) A letter of credit that states that it is perpetual expires five years after its stated date of issuance, or if none is stated, after the date on which it is issued.

"§ *25-5-107. Confirmer, nominated person, and adviser.*

(a) A confirmer is directly obligated on a letter of credit and has the rights and obligations of an issuer to the extent of its confirmation. The confirmer also has rights against and obligations to the issuer as if the issuer were an applicant, and the confirmer had issued the letter of credit at the request and for the account of the issuer.

(b) A nominated person who is not a confirmer is not obligated to honor or otherwise give value for a presentation.

(c) A person requested to advise may decline to act as an adviser. An adviser that is not a confirmer is not obligated to honor or give value for a presentation. An adviser undertakes to the issuer and to the beneficiary accurately to advise the terms of the letter of credit, confirmation, amendment, or advice received by that person and undertakes to the beneficiary to check the apparent authenticity of the request to advise. Even if the advice is inaccurate, the letter of credit, confirmation, or amendment is enforceable as issued.

(d) A person who notifies a transferee beneficiary of the terms of a letter of credit, confirmation, amendment, or advice has the rights and obligations of an adviser under subsection (c) of this section. The terms in the notice to the transferee beneficiary may differ from the terms in any notice to the transferor beneficiary to the extent permitted by the letter of credit, confirmation, amendment, or advice received by the person who so notifies.

"§ 25-5-108. Issuer's rights and obligations.

(a) Except as otherwise provided in G.S. 25-5-109, an issuer shall honor a presentation that, as determined by the standard practice referred to in subsection (e) of this section, appears on its face strictly to comply with the terms and conditions of the letter of credit. Except as otherwise provided in G.S. 25-5-113 and unless otherwise agreed with the applicant, an issuer shall dishonor a presentation that does not appear so to comply.

(b) An issuer has a reasonable time after presentation, but not beyond the end of the seventh business day of the issuer after the day of its receipt of documents:

(1) To honor;

(2) If the letter of credit provides for honor to be completed more than seven business days after presentation, to accept a draft or incur a deferred obligation; or

(3) To give notice to the presenter of discrepancies in the presentation.

(c) Except as otherwise provided in subsection (d) of this section, an issuer is precluded from asserting as a basis for dishonor any discrepancy if timely notice is not given or any discrepancy not stated in the notice if timely notice is given.

(d) Failure to give the notice specified in subsection (b) of this section or to mention fraud, forgery, or expiration in the notice does not preclude the issuer from asserting as a basis for dishonor (i) fraud or forgery as described in G.S. 25-5-109(a) or (ii) expiration of the letter of credit before presentation.

(e) An issuer shall observe standard practice of financial institutions that regularly issue letters of credit. Determination of the issuer's observance of the standard practice is a matter of interpretation for the court. The court shall offer the parties a reasonable opportunity to present evidence of the standard practice.

(f) An issuer is not responsible for:

(1) The performance or nonperformance of the underlying contract, arrangement, or transaction;

(2) An act or omission of others; or

(3) Observance or knowledge of the usage of a particular trade other than the standard practice referred to in subsection (e) of this section.

(g) If an undertaking constituting a letter of credit under G.S. 25-5-102(a)(10) contains nondocumentary conditions, an issuer shall disregard the nondocumentary conditions and treat them as if they were not stated.

(h) An issuer that has dishonored a presentation shall return the documents or hold them at the disposal of, and send advice to that effect to, the presenter.

(i) An issuer that has honored a presentation as permitted or required by this Article:

(1) Is entitled to be reimbursed by the applicant in immediately available funds not later than the date of its payment of funds;

(2) Takes the documents free of claims of the beneficiary or presenter;

(3) Is precluded from asserting a right of recourse on a draft under G.S. 25-3-414 and G.S. 25-3-415;

(4) Except as otherwise provided in G.S. 25-5-110 and G.S. 25-5-117, is precluded from restitution of money paid or other value given by mistake to the extent the mistake concerns discrepancies in the documents or tender which are apparent on the face of the presentation; and

(5) Is discharged to the extent of its performance under the letter of credit unless the issuer honored a presentation in which a required signature of a beneficiary was forged.

"*§ 25-5-109. Fraud and forgery.*

(a) If a presentation is made that appears on its face strictly to comply with the terms and conditions of the letter of credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant:

(1) The issuer shall honor the presentation, if honor is demanded by (i) a nominated person who has given value in good faith and without notice of forgery or material fraud, (ii) a confirmer who has honored its confirmation in good faith, (iii) a holder in due course of a draft drawn under the letter of credit which was taken after acceptance by the issuer or nominated person, or (iv) an assignee of the issuer's or nominated person's deferred obligation that was taken for value and without notice of forgery or material fraud after the obligation was incurred by the issuer or nominated person; and

(2) The issuer, acting in good faith, may honor or dishonor the presentation in any other case.

(b) If an applicant claims that a required document is forged or materially fraudulent or that honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant, a court of competent jurisdiction may temporarily or permanently enjoin the issuer from honoring a presentation or grant similar relief against the issuer or other persons only if the court finds that:

(1) The relief is not prohibited under the law applicable to an accepted draft or deferred obligation incurred by the issuer;

(2) A beneficiary, issuer, or nominated person who may be adversely affected is adequately protected against loss that it may suffer because the relief is granted;

(3) All of the conditions to entitle a person to the relief under the law of this State have been met; and

(4) On the basis of the information submitted to the court, the applicant is more likely than not to succeed under its claim of forgery or material fraud and the person demanding honor does not qualify for protection under subdivision (a)(1) of this section.

"*§ 25-5-110. Warranties.*

(a) If its presentation is honored, the beneficiary warrants:

(1) To the issuer, any other person to whom presentation is made, and the applicant that there is no fraud or forgery of the kind described in G.S. 25-5-109(a); and

(2) To the applicant that the drawing does not violate any agreement between the applicant and beneficiary or any other agreement intended by them to be augmented by the letter of credit.

(b) The warranties in subsection (a) of this section are in addition to warranties arising under Articles 3, 4, 7, and 8 of this Chapter because of the presentation or transfer of documents covered by any of those Articles.

"*§ 25-5-111. Remedies.*

(a) If an issuer wrongfully dishonors or repudiates its obligation to pay money under a letter of credit before presentation, the beneficiary, successor, or nominated person presenting on its own behalf may recover from the issuer the amount that is the subject of the dishonor or repudiation. If the issuer's obligation under the letter of credit is not for the payment of money, the claimant may obtain specific performance or, at the claimant's election, recover an amount equal to the value of performance from the issuer. In either case, the claimant may also recover incidental but not consequential damages. The claimant is not obligated to take action to avoid damages that might be due from the issuer under this subsection. If, although not obligated to do so, the claimant avoids damages, the claimant's recovery from the issuer must be reduced by the amount of damages avoided. The issuer has the burden of proving the amount of damages avoided. In the case of repudiation the claimant need not present any document.

(b) If an issuer wrongfully dishonors a draft or demand presented under a letter of credit or honors a draft or demand in breach of its obligation to the applicant, the applicant may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach.

(c) If an adviser or nominated person other than a confirmer breaches an obligation under this Article or an issuer breaches an obligation not covered in subsection (a) or (b) of this section, a person to whom the obligation is owed may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach. To the extent of the confirmation, a confirmer has the liability of an issuer specified in this subsection and subsections (a) and (b) of this section.

(d) An issuer, nominated person, or adviser who is found liable under subsection (a), (b), or (c) of this section shall pay interest on the amount owed thereunder from the date of wrongful dishonor or other appropriate date.

(e) Reasonable attorneys' fees and other expenses of litigation must be awarded to the prevailing party in an action in which a remedy is sought under this Article, and G.S. 6-21.2 shall not apply.

(f) Damages that would otherwise be payable by a party for breach of an obligation under this Article may be liquidated by agreement or undertaking, but only in an amount or by a formula that is reasonable in light of the harm anticipated.

"*§ 25-5-112. Transfer of letter of credit.*

(a) Except as otherwise provided in G.S. 25-5-113, unless a letter of credit provides that it is transferable, the right of a beneficiary to draw or otherwise demand performance under a letter of credit may not be transferred.

(b) Even if a letter of credit provides that it is transferable, the issuer may refuse to recognize or carry out a transfer if:

(1) The transfer would violate applicable law; or

(2) The transferor or transferee has failed to comply with any requirement stated in the letter of credit or any other requirement relating to transfer imposed by the issuer which is within the standard practice referred to in G.S. 25-5-108(e) or is otherwise reasonable under the circumstances.

"*§ 25-5-113. Transfer by operation of law.*

(a) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in the name of the beneficiary without disclosing its status as a successor.

(b) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in its own name as the disclosed successor of the beneficiary. Except as otherwise provided in subsection (e) of this section, an issuer shall recognize a disclosed successor of a beneficiary as beneficiary in full substitution for its predecessor upon compliance with the requirements for recognition by the issuer of a transfer of drawing rights by operation of law under the standard practice referred to in G.S. 25-5-108(e) or, in the absence of such a practice, compliance with other reasonable procedures sufficient to protect the issuer.

(c) An issuer is not obliged to determine whether a purported successor is a successor of a beneficiary or whether the signature of a purported successor is genuine or authorized.

(d) Honor of a purported successor's apparently complying presentation under subsection (a) or (b) of this section has the consequences specified in G.S. 25-5-108(i) even if the purported successor is not the successor of a beneficiary. Documents signed in the name of the beneficiary or of a disclosed successor by a person who is neither the beneficiary nor the successor of the beneficiary are forged documents for the purposes of G.S. 25-5-109.

(e) An issuer whose rights of reimbursement are not covered by subsection (d) of this section or substantially similar law and any confirmer or nominated person may decline to recognize a presentation under subsection (b) of this section.

(f) A beneficiary whose name is changed after the issuance of a letter of credit has the same rights and obligations as a successor of a beneficiary under this section.

"§ 25-5-114. *Assignment of proceeds.*

(a) In this section, 'proceeds of a letter of credit' means the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

(b) A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

(c) An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

(d) An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and presentation of the letter of credit is a condition to honor.

(e) Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

(f) Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a third person affect the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by Article 9 of this Chapter or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by Article 9 of this Chapter or other law.

"§ 25-5-115. *Statute of limitations.*

An action to enforce a right or obligation arising under this Article must be commenced within one year after the expiration date of the relevant letter of credit or one year after the cause of action accrues, whichever occurs later. A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach.

"§ 25-5-116. *Choice of law and forum.*

(a) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in G.S. 25-5-104 or by a provision in the person's letter of credit, confirmation, or other undertaking. The

jurisdiction whose law is chosen need not bear any relation to the transaction.

(b) Unless subsection (a) of this section applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one address is indicated, the person is considered to be located at the address from which the person's undertaking was issued. For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

(c) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If (i) this Article would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b) of this section, (ii) the relevant undertaking incorporates rules of custom or practice, and (iii) there is conflict between this Article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in G.S. 25-5-103(c).

(d) If there is conflict between this Article and Article 3, 4, 4A, or 9 of this Chapter, this Article governs.

(e) Notwithstanding G.S. 22B-3, the forum for settling disputes arising out of an undertaking within this Article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (a) of this section.

"§ 25-5-117. Subrogation of issuer, applicant, and nominated person.

(a) An issuer that honors a beneficiary's presentation is subrogated to the rights of the beneficiary to the same extent as if the issuer were a secondary obligor of the underlying obligation owed to the beneficiary and of the applicant to the same extent as if the issuer were the secondary obligor of the underlying obligation owed to the applicant.

(b) An applicant that reimburses an issuer is subrogated to the rights of the issuer against any beneficiary, presenter, or nominated person to the same extent as if the applicant were the secondary obligor of the obligations owed to the issuer and has the rights of subrogation of the issuer to the rights of the beneficiary stated in subsection (a) of this section.

(c) A nominated person who pays or gives value against a draft or demand presented under a letter of credit is subrogated to the rights of:

(1) The issuer against the applicant to the same extent as if the nominated person were a secondary obligor of the obligation owed to the issuer by the applicant;

(2) The beneficiary to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the beneficiary; and

(3) The applicant to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the applicant.

(d) Notwithstanding any agreement or term to the contrary, the rights of subrogation stated in subsections (a) and (b) of this section do not arise until the issuer honors the letter of credit or otherwise pays and the rights in subsection (c) of this section do not arise until the nominated person pays or otherwise gives value. Until then, the issuer, nominated person, and the applicant do not derive under this section present or prospective rights forming the basis of a claim, defense, or excuse."

Section 2. G.S. 25-1-105(2) reads as rewritten:

"(2) Where one of the following provisions of this Chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. (G.S. 25-2-402).

Applicability of the article on bank deposits and collections. (G.S. 25-4-102).

Bulk transfers subject to the article on bulk transfers. (G.S. 25-6-102).

Applicability of the article on investment securities. (G.S. 25-8-110).

Perfection provisions of the article on secured transactions. (G.S. 25-9-103).

Governing law in the article on Funds Transfers. (G.S. 25-4A-507).

Letters of Credit. (G.S. 25-5-116)."

Section 3. G.S. 25-2-512(1) reads as rewritten:

"(1) Where the contract requires payment before inspection nonconformity of the goods does not excuse the buyer from so making payment unless

(a) the nonconformity appears without inspection; or

(b) despite tender of the required documents the circumstances would justify injunction against honor under ~~the provisions of~~ this chapter ~~(G.S. 25-5-114).~~ (G.S. 25-5-109(b))."

Section 4.(a) The catch line to G.S. 25-9-103(1) reads as rewritten:

"(1) Documents, ~~Instruments~~ Instruments, Letters of Credit, and Ordinary Goods. --".

Section 4.(b) G.S. 25-9-103(1)(a) reads as rewritten:

"(a) This subsection applies to ~~documents and instruments and to~~ documents, instruments, rights to proceeds of written letters of credit, and goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5)."

Section 5.(a) G.S. 25-9-104(l) reads as rewritten:

"(l) to a transfer of an interest in any deposit account (subsection (1) of G.S. 25-9-105), except as provided with respect to proceeds (G.S. 25-9-306) and priorities in proceeds ~~(G.S. 25-9-312).~~ (G.S. 25-9-312); or".

Section 5.(b) G.S. 25-9-104 is amended by adding a new subsection to read:

"(m) to a transfer of an interest in a letter of credit other than the rights to proceeds of a written letter of credit."

Section 6. G.S. 25-9-105(3) reads as rewritten:

"(3) The following definitions in other Articles apply to this Article:

'Broker.' (G.S. 25-8-102).
'Certificated security.' (G.S. 25-8-102).
'Check.' (G.S. 25-3-104).
'Clearing corporation.' (G.S. 25-8-102).
'Contract for sale.' (G.S. 25-2-106).
'Control.' (G.S. 25-8-106).
'Delivery.' (G.S. 25-8-301).
'Entitlement holder.' (G.S. 25-8-102).
'Financial asset.' (G.S. 25-8-102).
'Holder in due course.' (G.S. 25-3-302).
'Letter of credit.' (G.S. 25-5-102).
'Note.' (G.S. 25-3-104).
'Proceeds of a letter of credit.' (G.S. 25-5-114(a)).
'Sale.' (G.S. 25-2-106).
'Securities intermediary.' (G.S. 25-8-102).
'Security.' (G.S. 25-8-102).
'Security certificate.' (G.S. 25-8-102).
'Security entitlement.' (G.S. 25-8-102).
'Uncertificated security.' (G.S. 25-8-102)."

Section 7. G.S. 25-9-106 reads as rewritten:

"*§ 25-9-106. Definitions: 'Account'; 'general intangibles.'*

'Account' means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. 'General intangibles' means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, investment property, rights to proceeds of written letters of credit, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts."

Section 8.(a) The catch line to G.S. 25-9-304 reads as rewritten:

"*§ 25-9-304. Perfection of security interest in instruments, documents, proceeds of a written letter of credit, and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession.*"

Section 8.(b) G.S. 25-9-304(1) reads as rewritten:

"(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in the rights to proceeds of a written letter of credit can be perfected only by the secured party's taking possession of the letter of credit. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of G.S. 25-9-306 on proceeds."

Section 9. G.S. 25-9-305 reads as rewritten:

"§ *25-9-305. When possession by secured party perfects security interest without filing.*

A security interest in ~~letters of credit and advices of credit (subsection (2)(a) of G.S. 25-5-116),~~ goods, instruments, money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. A security interest in the rights to proceeds of a written letter of credit may be perfected by the secured party's taking possession of the letter of credit. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this article. The security interest may be otherwise perfected as provided in this article before or after the period of possession by the secured party."

Section 10. A transaction arising out of or associated with a letter of credit that was issued before the effective date of this act and the rights, obligations, and interest flowing from that transaction are governed by any statute or other law amended or repealed by this act as if repeal or amendment had not occurred and may be terminated, completed, consummated, or enforced under that statute or other law.

Section 11. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the official comments to the Uniform Commercial Code, Revised Article 5 and conforming and miscellaneous amendments to Articles 1, 2, and 9 and all explanatory comments of the drafters of this act as the Revisor deems appropriate.

Section 12. This act becomes effective October 1, 1999, and applies to a letter of credit that is issued on or after that date and does not apply to a transaction, event, obligation, or duty arising out of or associated with a letter of credit that was issued before that date.

In the General Assembly read three times and ratified this the 12th day of May, 1999.

Became law upon approval of the Governor at 9:18 a.m. on the 21st day of May, 1999.

S.B. 417 **SESSION LAW 1999-74**

AN ACT TO AUTHORIZE THE USE OF LETTERS OF CREDIT FROM A FEDERAL HOME LOAN BANK AS COLLATERAL FOR DEPOSITS OF LOCAL GOVERNMENTS AND PUBLIC AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-31(b) reads as rewritten:

"(b) The amount of funds on deposit in an official depository or deposited at interest pursuant to G.S. 159-30(b) shall be secured by deposit insurance, surety bonds, letters of credit issued by a Federal Home Loan Bank, or investment securities of such nature, in a sufficient amount to protect the local government or public authority on account of deposit of funds made

therein, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local government or public authority because of the default or insolvency of the depository. No security is required for the protection of funds remitted to and received by a bank, savings and loan association, or trust company acting as fiscal agent for the payment of principal and interest on bonds or notes, when the funds are remitted no more than 60 days prior to the maturity date."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of May, 1999.

Became law upon approval of the Governor at 9:20 a.m. on the 21st day of May, 1999.

S.B. 790 **SESSION LAW 1999-75**

AN ACT TO CLARIFY WHICH LENDERS MAY CHARGE CERTAIN FEES UNDER THE GENERAL CONTRACT LOAN PROVISION OF CHAPTER 24 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1 reads as rewritten:

"*§ 24-1.1. Contract rates and fees.*

(a) Except as otherwise provided in this Chapter or other applicable law, the parties to a loan, purchase money loan, advance, commitment for a loan or forbearance other than a credit card, open-end, or similar loan may contract in writing for the payment of interest not in excess of:

(1) Where the principal amount is twenty-five thousand dollars ($25,000) or less, the rate set under subsection (c) of this section; or

(2) Any rate agreed upon by the parties where the principal amount is more than twenty-five thousand dollars ($25,000).

(b) As used in this section, interest shall not be deemed in excess of the rates provided where interest is computed monthly on the outstanding principal balance and is collected not more than 31 days in advance of its due date. Nothing in this section shall be construed to authorize the charging of interest on committed funds prior to the disbursement of said funds.

(c) On the fifteenth day of each month, the Commissioner of Banks shall announce and publish the maximum rate of interest permitted by subdivision (1) of subsection (a) of this section on that date. Such rate shall be the latest published noncompetitive rate for U.S. Treasury bills with a six-month maturity as of the fifteenth day of the month plus six percent (6%), rounded upward or downward, as the case may be, to the nearest one-half of one percent (1/2 of 1%) or sixteen percent (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of 1%), the Commissioner shall round downward to the lower one-half of one percent (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the term of

loans made under this section during the following calendar month when the parties to such loans have agreed that the rate of interest to be charged by the lender and paid by the borrower shall not vary or be adjusted during the term of the loan. The parties to a loan made under this section may agree to a rate of interest which shall vary or be adjusted during the term of the loan in which case the maximum rate of interest permitted on such loans during a month during the term of the loan shall be the greater of the rate announced by the Commissioner in (i) the preceding calendar month or (ii) the calendar month preceding that in which the rate is varied or adjusted.

(d) Any ~~lender~~ bank or savings institution organized under the law of North Carolina or of the United States may charge a party to a loan or extension of credit governed by this section a fee for the modification, renewal, extension, or amendment of any terms of the loan or extension of credit, such fee not to exceed the greater of one-quarter of one percent (1/4 of 1%) of the balance outstanding at the time of the modification, renewal, extension, or amendment of terms, or fifty dollars ($50.00).

(e) Any ~~lender~~ bank or savings institution organized under the law of North Carolina or of the United States may charge a party to a loan or extension of credit not secured by real property governed by this section an origination fee not to exceed the greater of one-quarter of one percent (1/4 of 1%) of the outstanding balance or fifty dollars ($50.00).

(f) This section shall not be construed to limit fees on loans or extensions of credit in excess of three hundred thousand dollars ($300,000)."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 12th day of May, 1999.

Became law upon approval of the Governor at 9:22 a.m. on the 21st day of May, 1999.

S.B. 40 **SESSION LAW 1999-76**

AN ACT TO INCREASE THE NUMBER OF PERSONS AUTHORIZED TO BE APPOINTED TO SUBCOMMITTEES OF THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-186.1(a) reads as rewritten:

"(a) The Commission cochairs shall appoint subcommittees as needed to assist with the completion of the work of the Commission. These subcommittees may include an Alzheimer's Subcommittee, a Long-Term Care Subcommittee, or other special subject subcommittees. The cochairs shall appoint as members of any subcommittee not more than four Commission members and at least four but no more than ~~six~~ eight non-Commission members."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of May, 1999.

Became law upon approval of the Governor at 9:25 a.m. on the 21st day of May, 1999.

H.B. 1127 **SESSION LAW 1999-77**

AN ACT TO DIRECT THE DIVISION OF ENVIRONMENTAL HEALTH OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT A STUDY INVOLVING INTERESTED PARTIES TO REVIEW AND REVISE THE CURRENT PROCEDURES CONCERNING COFFEE POTS AND ICE BUCKETS PROVIDED BY LODGING ESTABLISHMENTS IN GUEST ROOMS AND TO SUSPEND CURRENT APPLICABLE RULES UNTIL REVISED RULES HAVE BEEN ADOPTED AS TEMPORARY RULES.

The General Assembly of North Carolina enacts:

Section 1.(a) The Division of Environmental Health of the Department of Environment and Natural Resources shall review the current rules adopted pursuant to Part 6 of Article 8 of Chapter 130A of the General Statutes that apply to procedures that must be followed by lodging establishments concerning coffee pots and ice buckets that are placed in guest rooms for use by guests of the establishment, shall consult during this review with representatives of the affected industry and the various agencies responsible for implementing the applicable rules, and shall recommend rules, revised as needed, to the Commission for Health Services.

Section 1.(b) Current rules that apply to equipment concerning coffee pots and ice buckets that are placed by lodging establishments in guest rooms for use by guests of the establishment are suspended until revised rules under this act have been adopted.

Section 1.(c) The Commission for Health Services shall adopt the revised rules under subsection (a) of this section as temporary rules no later than January 31, 2000.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law upon approval of the Governor at 3:55 p.m. on the 21st day of May, 1999.

H.B. 674 **SESSION LAW 1999-78**

AN ACT TO ALLOW A FEDERALLY RECOGNIZED INDIAN TRIBE TO PERFORM BUILDING INSPECTIONS AND TO ALLOW CERTIFICATION AND LICENSE REGULATION OF BUILDING INSPECTORS ON TRIBAL LANDS OF FEDERALLY RECOGNIZED INDIAN TRIBES.

The General Assembly of North Carolina enacts:

Section 1. Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"*§ 153A-350.1. Tribal lands.*

As used in this Part, the term:

(1) 'Board of commissioners' includes the Tribal Council of such tribe.

(2) 'County' or 'counties' also means a federally recognized Indian Tribe, and as to such tribe includes lands held in trust for the tribe."

Section 2. G.S. 143-151.8 reads as rewritten:

"§ *143-151.8. Definitions.*

(a) As used in this Article, unless the context otherwise requires:

(1) 'Board' means the North Carolina Code Officials Qualification Board.

(2) 'Code' means the North Carolina State Building Code and related local building rules approved by the Building Code Council heretofore or hereinafter enacted, adopted or approved pursuant to ~~G.S. 143-138.~~ G.S. 143-138, and any resolution adopted by a federally recognized Indian Tribe under G.S. 153A-350.1 in which the Tribe adopts the North Carolina State Building Code and related local building rules.

(3) 'Code enforcement' means the examination and approval of plans and specifications, or the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and components thereof, or the enforcement of fire code regulations as an employee of the State or local government or as an employee of a federally recognized Indian Tribe employed to perform inspections on tribal lands under G.S. 153A-350.1, or other individual contracting with the State or a local government or a federally recognized Indian Tribe who performs inspections on tribal lands under G.S. 153A-350.1 to conduct inspections, except an employee of the State Department of Labor engaged in the administration and enforcement of those sections of the Code which pertain to boilers and elevators, to assure compliance with the State Building Code and related local building rules.

(4) 'Local inspection department' means the agency or agencies of local ~~government~~ government, or any government agency of a federally recognized Indian Tribe under G.S. 153A-350.1, with authority to make inspections of buildings and to enforce the Code and other laws, ordinances, and rules enacted by the State and the local government or a federally recognized Indian Tribe under G.S. 153A-350.1, which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings, and conditions that may create hazards of fire, explosion, or related hazards.

(5) 'Qualified Code-enforcement official' means a person qualified under this Article to engage in the practice of Code enforcement.

(b) For purposes of this Article, the population of a city or county shall be determined according to the most current federal census, unless otherwise specified."

Section 3. G.S. 143-151.12(3) reads as rewritten:

"(3) Certify persons as being qualified under the provisions of this Article to be Code-enforcement ~~officials;~~ officials, including

persons employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1;".

Section 4. G.S. 143-151.15 reads as rewritten:

"*§ 143-151.15. Return of certificate to Board; reissuance by Board.*

A certificate issued by the Board under this Article is valid as long as the person certified is employed by the State of North Carolina or any political subdivision thereof as a Code-enforcement ~~official.~~ official, or is employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1 as a Code-enforcement official. When the person certified leaves that employment for any reason, he shall return the certificate to the Board. If the person subsequently obtains employment as a Code-enforcement official in any governmental jurisdiction described above, the Board may reissue the certificate to him. The provisions of G.S. 143-151.16(b) relating to renewal fees and late renewals shall apply, if appropriate. The provisions of G.S. 143-151.16(c) shall not apply. This section does not affect the Board's powers under G.S. 143-151.17."

Section 5. G.S. 143-151.17 reads as rewritten:

"*§ 143-151.17. Grounds for disciplinary actions; investigation; administrative procedures.*

(a) The Board shall have the power to suspend, revoke or refuse to grant any certificate issued under the provisions of this Article to any person who:

(1) Has been convicted of a felony against this State or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this State;
(2) Has obtained certification through fraud, deceit, or perjury;
(3) Has knowingly aided or abetted any person practicing contrary to the provisions of this Article or the State Building ~~Code;~~ Code or any building codes adopted by a federally recognized Indian Tribe under G.S. 153A-350.1;
(4) Has defrauded the public or attempted to do so;
(5) Has affixed his signature to a report of inspection or other instrument of service if no inspection has been made by him or under his immediate and responsible direction; or,
(6) Has been guilty of willful misconduct, gross negligence or gross incompetence.

(b) The Board may investigate the actions of any qualified Code-enforcement official or applicant upon the verified complaint in writing of any person alleging a violation of subsection (a). The Board may suspend or revoke the certification of any qualified Code-enforcement official and refuse to grant a certificate to any applicant, whom it finds to have been guilty of one or more of the actions set out in subsection (a) as grounds for disciplinary action.

(c) A denial, suspension, or revocation of a certificate issued under this Article shall be made in accordance with Chapter 150B of the General Statutes.

(d) The Board may deny an application for a certificate for any of the grounds that are described in subsection (a) of this section. Within 30 days after receipt of a notification that an application for a certificate has been denied, the applicant may make a written request for a review by a

committee designated by the chairman of the Board to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written request for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

(e) The provisions of this section shall apply to Code-enforcement officials and applicants who are employed or seek to be employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1."

Section 6. Session Law 1998-21 is repealed.

Section 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law upon approval of the Governor at 3:56 p.m. on the 21st day of May, 1999.

H.B. 818 **SESSION LAW 1999-79**

AN ACT AMENDING THE EVIDENCE CODE, CHAPTER 8C OF THE GENERAL STATUTES, TO MAKE ADMISSIBLE FOR THE PURPOSES OF IMPEACHMENT EVIDENCE OF A WITNESS' CONVICTION OF A FELONY OR CLASS A1, CLASS 1, OR CLASS 2 MISDEMEANOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8C-1, Rule 609(a) of the Evidence Code, reads as rewritten:

"(a) General rule. -- For the purpose of attacking the credibility of a witness, evidence that ~~he~~ the witness has been convicted of a ~~crime punishable by more than 60 days confinement~~ felony, or of a Class A1, Class 1, or Class 2 misdemeanor, shall be admitted if elicited from ~~him~~ the witness or established by public record during cross-examination or thereafter."

Section 2. This act becomes effective December 1, 1999; and, consistent with G.S. 8C-1, Rule 1101(a), shall apply to all actions and proceedings in the courts of this State.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law upon approval of the Governor at 3:57 p.m. on the 21st day of May, 1999.

H.B. 870 **SESSION LAW 1999-80**

AN ACT TO ALLOW MAGISTRATES TO ACCEPT WAIVERS AND ENTER JUDGMENT IN CERTAIN CASES INVOLVING REGULATION OF THE USE OF MOTOR VEHICLES ON BEACHES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-273 is amended by adding a new subdivision to read:

"(2a) In misdemeanor cases involving the violation of a county ordinance authorized by law regulating the use of dune or beach buggies or other power-driven vehicles specified by the governing body of the county on the foreshore, beach strand, or the barrier dune system, to accept written appearances, waivers of trial or hearing, and pleas of guilty or admissions of responsibility, in accordance with the schedule of offenses and fines or penalties promulgated by the Conference of Chief District Court Judges pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the fines or penalties and costs;"

Section 2. G.S. 7A-148(a) reads as rewritten:

"(a) The chief district judges of the various district court districts shall meet at least once a year upon call of the Chief Justice of the Supreme Court to discuss mutual problems affecting the courts and the improvement of court operations, to prepare and adopt uniform schedules of offenses for the types of offenses specified in G.S. 7A-273(2) and G.S. 7A-273(2a) for which magistrates and clerks of court may accept written appearances, waivers of trial or hearing and pleas of guilty or admissions of responsibility, and establish a schedule of penalties or fines therefor, and to take such further action as may be found practicable and desirable to promote the uniform administration of justice."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law upon approval of the Governor at 3:59 p.m. on the 21st day of May, 1999.

H.B. 906 **SESSION LAW 1999-81**

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF PHARMACY TO ENTER INTO AGREEMENTS WITH PHARMACIST PEER REVIEW ORGANIZATIONS FOR IMPAIRED PHARMACISTS.

The General Assembly of North Carolina enacts:

Section 1. Article 4A of Chapter 90 of the General Statutes is amended by adding the following new section:

"*§ 90-85.41. Board agreements with special peer review organizations for impaired pharmacists.*

(a) The North Carolina Board of Pharmacy may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with special impaired pharmacist peer review organizations. Peer review activities to be covered by such agreements shall include investigation, review and evaluation of records, reports, complaints, litigation, and other information about the practices and practice patterns of pharmacists licensed by the Board, as such matters may relate to impaired

pharmacists. Special impaired pharmacist peer review organizations may include a statewide supervisory committee and various regional and local components or subgroups.

(b) Agreements authorized under this section shall include provisions for the impaired pharmacist peer review organizations to receive relevant information from the Board and other sources, conduct any investigation, review, and evaluation in an expeditious manner, provide assurance of confidentiality of nonpublic information and of the peer review process, make reports of investigations and evaluations to the Board, and to do other related activities for operating and promoting a coordinated and effective peer review process. The agreements shall include provisions assuring basic due process for pharmacists that become involved.

(c) The impaired pharmacist peer review organizations that enter into agreements with the Board shall establish and maintain a program for impaired pharmacists licensed by the Board for the purpose of identifying, reviewing, and evaluating the ability of those pharmacists to function as pharmacists, and to provide programs for treatment and rehabilitation. The Board may provide funds for the administration of these impaired pharmacist peer review programs. The Board shall adopt rules to apply to the operation of impaired pharmacist peer review programs, with provisions for: (i) definitions of impairment; (ii) guidelines for program elements; (iii) procedures for receipt and use of information of suspected impairment; (iv) procedures for intervention and referral; (v) arrangements for monitoring treatment, rehabilitation, posttreatment support, and performance; (vi) reports of individual cases to the Board; (vii) periodic reporting of statistical information; and (viii) assurance of confidentiality of nonpublic information and of the peer review process.

(d) Upon investigation and review of a pharmacist licensed by the Board, or upon receipt of a complaint or other information, an impaired pharmacist peer review organization that enters into a peer review agreement with the Board shall report immediately to the Board detailed information about any pharmacist licensed by the Board, if:

(1) The pharmacist constitutes an imminent danger to the public or himself or herself.

(2) The pharmacist refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence.

(3) It reasonably appears that there are other grounds for disciplinary action.

(e) Any confidential patient information and other nonpublic information acquired, created, or used in good faith by an impaired pharmacist peer review organization pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case. No person participating in good faith in an impaired pharmacist peer review program developed under this section shall be required in a civil case to disclose any information (including opinions, recommendations, or evaluations) acquired or developed solely in the course of participating in the program.

(f) Impaired pharmacist peer review activities conducted in good faith pursuant to any program developed under this section shall not be grounds

for civil action under the laws of this State, and the activities are deemed to be State directed and sanctioned and shall constitute "State action" for the purposes of application of antitrust laws."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law upon approval of the Governor at 4:00 p.m. on the 21st day of May, 1999.

H.B. 1008 **SESSION LAW 1999-82**

AN ACT TO PROVIDE FOR THE REGULATION OF CERTAIN EXCAVATION AND GRADING ACTIVITIES UNDER THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973 INSTEAD OF THE MINING ACT OF 1971.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-49(7) reads as rewritten:

"(7) 'Mining' means:

a. The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter.

b. Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location.

c. The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

'Mining' does not include:

a. Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area.

b. Mining operations where the affected land does not exceed one acre in area.

c. Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land.

d. Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining.

e. Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area.

f. Excavation or grading where all of the following apply:

1. The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
2. The affected land, including nonpublic access roads, does not exceed five acres.
3. The excavation or grading is completed within one year.
4. The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.
5. The excavation or grading is not in violation of any local ordinance.
6. An erosion control plan for the excavation or grading has been approved in accordance with Article 4 of Chapter 113A of the General Statutes."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law upon approval of the Governor at 4:02 p.m. on the 21st day of May, 1999.

H.B. 1125 **SESSION LAW 1999-83**

AN ACT TO CONFORM THE DEFINITION OF AN INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE UNDER THE INACTIVE HAZARDOUS SITES RESPONSE ACT OF 1987 TO FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-310 reads as rewritten:

"*§ 130A-310. Definitions.*

Unless a different meaning is required by the context, the following definitions shall apply throughout this Part:

(1) 'CERCLA/SARA' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended.

(2) 'Hazardous substance' means hazardous substance as defined in CERCLA/SARA.

(3) 'Inactive hazardous substance or waste disposal site' or 'site' means any ~~facility, structure, or area where disposal of any hazardous substance or waste has occurred. Such~~ facility, as defined in CERCLA/SARA. These sites do not include hazardous waste facilities permitted or in interim status under this Article.

(4) 'Operator' means the person responsible for the overall operation of an inactive hazardous substance or waste disposal site.
(5) 'Owner' means any person who owns an inactive hazardous substance or waste disposal site, or any part thereof.
(6) 'Release' means release as defined in the CERCLA/SARA.
(7) 'Remedy' or 'Remedial Action' means remedy or remedial action as defined in CERCLA/SARA.
(8) 'Remove' or 'Removal' means remove or removal as defined in CERCLA/SARA.
(9) 'Responsible party' means any person who is liable pursuant to G.S. 130A-310.7."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law upon approval of the Governor at 4:04 p.m. on the 21st day of May, 1999.

H.B. 260 **SESSION LAW 1999-84**

AN ACT TO UPDATE AND MAKE TECHNICAL CHANGES TO THE COMMUNITY COLLEGE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-2 reads as rewritten:

"§ *115D-2. Definitions.*

As used in this Chapter:

. . .

(2) The term "community college" is defined as an educational institution operating under the provisions of this Chapter and dedicated primarily to the educational needs of the service area which it serves, and may offer
a. The freshmen and sophomore courses of a college of arts and sciences, authorized by G.S. 115D-4.1;
b. Organized credit curricula for the training of technicians; curricular courses may carry transfer credit to a senior college or university where the course is comparable in content and quality and is appropriate to a chosen course of study;
c. Vocational, trade, and technical specialty courses and programs, and
d. Courses in general adult education.

~~Local boards of trustees, with concurrence of the respective county commissioners, may, before January 1, 1988, adopt names of their respective institutions that include the words "Community College".~~

(3) The term "institution" refers to any institution established pursuant to this Chapter except for the North Carolina ~~Vocational Textile School.~~ Center for Applied Textile Technology.

. . . ."

Section 2. G.S. 115D-4.1(e) reads as rewritten:

"(e) The State Board of Community Colleges shall develop appropriate criteria and standards to regulate the operation of college transfer programs. The criteria and standards shall ~~require:~~ require all college transfer programs to continue to meet the accreditation standards of the Southern Association of Colleges and Schools.

~~(1) All college transfer programs to continue to meet the accreditation standards of the Southern Association of Colleges and Schools,~~

~~(2) Each community college that offers a college transfer program to have an articulation agreement with at least one four-year college or university for the acceptance of those courses,~~

~~(3) Each community college that offers a college transfer program to disclose to students when they register for college transfer courses the articulation agreements the community college has with a four-year college or university.~~

The State Board of Community Colleges shall report annually to the General Assembly on compliance of the community colleges with these criteria and standards."

Section 3. G.S. 115D-5(e) is repealed.

Section 4. G.S. 115D-8 is repealed.

Section 5. G.S. 115D-32(a)(2)a.2. reads as rewritten:

"2. Cost of fuel, water, power, and ~~telephones.~~ telephone services."

Section 6. G.S. 115D-77 reads as rewritten:

"§ *115D-77. Nondiscrimination policy.*

It is the policy of the State Board of Community Colleges and of local boards of trustees of the State of North Carolina not to discriminate among students on the basis of race, ~~gender or~~ gender, national ~~origin.~~ origin, religion, age, or disability.

The State Board and each board of trustees shall give equal opportunity for employment and compensation of personnel at community colleges, without regard to race, religion, color, creed, national origin, sex, age, or ~~handicapping conditions,~~ disability, except where specific age, sex or physical or mental requirements constitute bona fide occupational qualifications."

Section 7. G. S. 115D-2.1(d) reads as rewritten:

"(d) No member of the General Assembly, no officer or employee of the State, and no officer or employee of an institution under the jurisdiction of the State Board and no spouse of any of those persons, shall be eligible to serve on the State Board. Furthermore, no person who within the prior five years has been an employee of the ~~Department of Community Colleges~~ Community Colleges System Office shall be eligible to serve on the State Board."

Section 8. G.S. 115D-3 reads as rewritten:

"§ *115D-3.* ~~*Department of Community Colleges;*~~ *Community Colleges System Office; staff.*

The ~~Department of Community Colleges~~ Community Colleges System Office shall be a principal administrative department of State government under the direction of the State Board of Community Colleges, and shall be separate from the free public school system of the State, the State Board of

Education, and the Department of Public Instruction. The State Board has authority to adopt and administer all policies, regulations, and standards which it deems necessary for the operation of the ~~Department.~~ System Office.

The State Board shall elect a President of the North Carolina System of Community Colleges who shall serve as chief administrative officer of the ~~Department of Community Colleges.~~ Community Colleges System Office. The compensation of this position shall be fixed by the State Board from funds provided by the General Assembly in the Current Operations Appropriations Act.

The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on nomination of the President. The compensation of the staff members elected by the Board shall be fixed by the State Board of Community Colleges, upon recommendation of the President of the Community College System, from funds provided in the Current Operations Appropriations Act. These staff members shall include such officers as may be deemed desirable by the President and State Board. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the State Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the State Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. The State Board of Community Colleges shall have all other powers, duties, and responsibilities delegated to the State Board of Education affecting the ~~Department of Community Colleges~~ Community Colleges System Office not otherwise stated in this Chapter."

Section 9. G.S. 115D-5(g) reads as rewritten:

"(g) Funds appropriated to the ~~Department of Community Colleges~~ Community Colleges System Office as operating expenses for allocation to the institutions comprising the North Carolina Community College System shall not be used to support recreation extension courses. The financing of these courses by any institution shall be on a self-supporting basis, and membership hours produced from these activities shall not be counted when computing full-time equivalent students (FTE) for use in budget-funding formulas at the State level."

Section 10. G.S. 115D-7 reads as rewritten:

"*§ 115D-7. Establishment of private, nonprofit corporations.*

The State Board of Community Colleges shall encourage the establishment of private, nonprofit corporations to support the community college system.

The President of the ~~Department of Community Colleges~~ Community Colleges System with the approval of the State Board of Community Colleges, may assign employees to assist with the establishment and operation of such nonprofit corporation and may make available to the corporation office space, equipment, supplies and other related resources; provided, the sole purpose of the corporation is to support the community college system.

The board of directors of each private, nonprofit corporation shall secure and pay for the services of the State Auditor's Office or employ a certified public accountant to conduct an audit of the financial accounts of the corporation. The board of directors shall transmit to the State Board of Community Colleges a copy of the annual financial audit report of the private nonprofit corporation."

Section 11. G.S. 115D-31(c) reads as rewritten:

"(c) State funds appropriated to the State Board of Community Colleges for equipment and library books, except for funds appropriated to the Equipment Reserve Fund, shall revert to the General Fund 12 months after the close of the fiscal year for which they were appropriated. Encumbered balances outstanding at the end of each period shall be handled in accordance with existing State budget policies. The ~~Department~~ System Office shall identify to the Office of State Budget and Management the funds that revert at the end of the 12 months after the close of the fiscal year."

Section 12. G.S. 115D-40 reads as rewritten:

"*§ 115D-40. Community College Scholarship Fund.*

(a) A nonreverting Community College Scholarship Fund is created in the ~~Department of Community Colleges~~ Community Colleges System Office to provide community college scholarships for needy residents of North Carolina. The State Board of Community Colleges shall adopt rules regarding administration of the Fund and eligibility for scholarships from it. The ~~Department of Community Colleges~~ Community Colleges System Office shall administer the Fund. The ~~Department of Community Colleges~~ Community Colleges System Office shall make an effort to assure that the scholarships are distributed on a geographically equitable basis throughout the State among the several institutions. The principal of the Fund may not be used for any purpose; interest from the Fund may not be used for administering the Fund.

(b) Moneys in the Fund shall be deposited with the State Treasurer and administered under the provisions of G.S. 147-69.3. The State Treasurer shall make the interest earned on the moneys available to the ~~Department of Community Colleges~~ Community Colleges System Office as needed for scholarships."

Section 13. G.S. 115D-58.3 reads as rewritten:

"*§ 115D-58.3. Provision for disbursement of State money.*

The deposit of money in the State treasury to the credit of the institution shall be made in monthly installments, and additionally as necessary, at such time and in such manner as may be convenient for the operation of the community college system. Before an installment is credited, the institution shall certify to the ~~Department of Community Colleges,~~ Community Colleges

System Office, the expenditures to be made by the institution from the State Current Fund during the month.

The ~~Department of Community Colleges~~ Community Colleges System Office shall determine whether the moneys requisitioned are due the institution, and upon determining the amount due, shall cause the requisite amount to be credited to the institution. Upon receiving notice from the ~~Department of Community Colleges~~ Community Colleges System Office that the amount has been placed to the credit of the institution, the institution may issue State warrants up to the amount so certified. Money in the State Current Fund and other moneys made available by the State Board of Community Colleges shall be released only on warrants drawn on the State Treasurer, signed by two officials of the institution designated for this purpose by the board of trustees."

Section 14. G.S. 115D-58.5(a) reads as rewritten:

"(a) Each institution shall establish and maintain an accounting system consistent with procedures as prescribed by the ~~Department of Community Colleges~~ Community Colleges System Office and the State Auditor, which shows its assets, liabilities, equities, revenues, and expenditures."

Section 15. G.S. 115D-72 reads as rewritten:

"*§ 115D-72. Motorcycle Safety Instruction Program.*

(a) There is created a Motorcycle Safety Instruction Program for the purpose of establishing statewide motorcycle safety instruction to be delivered through the ~~Department of Community Colleges.~~ Community Colleges System Office. The Program may be administered by a motorcycle safety coordinator who shall be responsible for the planning, curriculum, and completion requirements of the Program. The State Board of Community Colleges may elect a motorcycle safety coordinator upon nomination of the President of the Community College System, and the compensation of the motorcycle safety coordinator shall be fixed by the State Board upon recommendation of the President of the Community College System pursuant to G.S. 115D-3. The State Board of Community Colleges may contract with an appropriate public or private agency or person to carry out the duties of the motorcycle safety coordinator.

(b) The Motorcycle Safety Instruction Program shall be implemented through the ~~Department of Community Colleges~~ Community Colleges System Office at institutions which choose to provide the Program. The motorcycle safety coordinator shall select and facilitate the training and certification of instructors who will implement the Program."

Section 16. G.S. 115D-78 reads as rewritten:

"*§ 115D-78. Access to information and public records.*

In accordance with Chapter 132 of the General Statutes, all rules, regulations and public records of the State Board of Community Colleges, the ~~Department of Community Colleges,~~ Community Colleges System Office, and local boards of trustees shall be available for examination and reproduction on payment of fees by any person."

Section 17. G.S. 58-33-135(b)(7) reads as rewritten:

"(7) One representative from a list of two nominees submitted by the ~~Department of Community Colleges.~~ Community Colleges System Office."

Section 18. G.S. 58-33-135(c)(9) reads as rewritten:

"(9) One representative from a list of two nominees submitted by the ~~Department of Community Colleges.~~ Community Colleges System Office."

Section 19. G.S. 116-11 reads as rewritten:

"§ *116-11. Powers and duties generally.*

The powers and duties of the Board of Governors shall include the following:

(1) The Board of Governors shall plan and develop a coordinated system of higher education in North Carolina. To this end it shall govern the 16 constituent institutions, subject to the powers and responsibilities given in this Article to the boards of trustees of the institutions, and to this end it shall maintain close liaison with the State Board of Community Colleges, the ~~Department of Community Colleges~~ Community Colleges System Office and the private colleges and universities of the State. The Board, in consultation with representatives of the State Board of Community Colleges and of the private colleges and universities, shall prepare and from time to time revise a long-range plan for a coordinated system of higher education, supplying copies thereof to the Governor, the members of the General Assembly, the Advisory Budget Commission and the institutions. Statewide federal or State programs that provide aid to institutions or students of post-secondary education through a State agency, except those related exclusively to the community college system, shall be administered by the Board pursuant to any requirements of State or federal statute in order to insure that all activities are consonant with the State's long-range plan for higher education.

. . .

(10) The Board shall collect and disseminate data concerning higher education in the State. To this end it shall work cooperatively with the ~~Department of Community Colleges~~ Community Colleges System Office and shall seek the assistance of the private colleges and universities. It may prescribe for the constituent institutions such uniform reporting practices and policies as it may deem desirable.

. . . ."

Section 20. G.S. 120-70.81(a) reads as rewritten:

"(a) The Joint Legislative Education Oversight Committee shall examine, on a continuing basis, the several educational institutions in North Carolina, in order to make ongoing recommendations to the General Assembly on ways to improve public education from kindergarten through higher education. In this examination, the Committee shall:

(1) Study the budgets, programs, and policies of the Department of Public Instruction, the State Board of Education, the ~~Department of Community Colleges,~~ Community Colleges System Office, the Board of Governors of The University of North Carolina, and the constituent institutions of The University of North Carolina to determine ways in which the General Assembly may encourage the

improvement of all education provided to North Carolinians and may aid in the development of more integrated methods of institutional accountability;

. . . ."

Section 21. G.S. 126-5(c2)(3) reads as rewritten:

"(3) Employees of community colleges whose salaries are fixed in accordance with the provisions of G.S. 115D-5 and G.S. 115D-20, and employees of the ~~Department of Community Colleges~~ Community Colleges System Office whose salaries are fixed by the State Board of Community Colleges in accordance with the provisions of G.S. 115D-3."

Section 22. G.S. 143-151.9(a)(12) reads as rewritten:

"(12) One member selected from the ~~Department of Community Colleges;~~ Community Colleges System Office;".

Section 23. G.S. 143B-6 reads as rewritten:

"*§ 143B-6. Principal departments.*

In addition to the principal departments enumerated in the Executive Organization Act of 1971, all executive and administrative powers, duties, and functions not including those of the General Assembly and its agencies, the General Court of Justice and the administrative agencies created pursuant to Article IV of the Constitution of North Carolina, and higher education previously vested by law in the several State agencies, are vested in the following principal departments:

(1) Department of Cultural Resources
(2) Department of Health and Human Services
(3) Department of Revenue
(4) Department of Crime Control and Public Safety
(5) Department of Correction
(6) Department of Environment and Natural Resources
(7) Department of Transportation
(8) Department of Administration
(9) Department of Commerce
(10) ~~Department of Community Colleges.~~ Community Colleges System Office."

Section 24. G.S. 143B-168.12(a)(1)d. reads as rewritten:

"d. The President of the ~~Department of Community Colleges,~~ Community Colleges System, ex officio, or the President's designee;".

Section 25. G.S. 143B-417(1)v. reads as rewritten:

"v. ~~Department of Community Colleges~~ Community Colleges System Office".

Section 26. G.S. 143B-426.9(14) reads as rewritten:

"(14) The President of the ~~Department of Community Colleges,~~ Community Colleges System, ex officio; and".

Section 27. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

Became law upon approval of the Governor at 4:06 p.m. on the 21st day of May, 1999.

S.B. 353 **SESSION LAW 1999-85**

AN ACT TO AUTHORIZE THE TOWN OF DAVIDSON TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation is located entirely within the same county as the annexing municipality and in an area that another city in that county has: (i) agreed not to annex, or (ii) has given the annexing city the right of annexation, under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements, then this subdivision shall not apply.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation under this Part is either: (i) in an area that another city has agreed not to annex under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements and the territory to be annexed is within the same county as the annexing city is located, or (ii) the closer city is located entirely within another county than the area being annexed, then the proximity to that other city shall not be considered in applying this subdivision.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision which is located within the same county as the annexing municipality must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city."

Section 2. This act applies to the Town of Davidson only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law on the date it was ratified.

H.B. 440 **SESSION LAW 1999-86**

AN ACT TO EXTEND THE SUNSET ON THE LAW PROVIDING FOR THE HUNTING AND TRAPPING OF FOXES AND RACCOONS IN HYDE AND BEAUFORT COUNTIES AND ALLOWING THE USE OF SNARES WHEN TRAPPING FUR-BEARING ANIMALS IN THOSE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 9 of S.L. 1997-132 reads as rewritten:

"Section 9. This act becomes effective October 1, 1997, and expires ~~June 1, 1999.~~ June 1, 2001."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law on the date it was ratified.

H.B. 650 **SESSION LAW 1999-87**

AN ACT TO ALLOW BRUNSWICK COUNTY TO REGULATE THE OPERATION OF PERSONAL WATERCRAFT.

The General Assembly of North Carolina enacts:

Section 1. A county may adopt ordinances to regulate the operation of personal watercraft in the Atlantic Ocean and other waterways within its territorial jurisdiction. The governing board of a municipality within the county may by resolution permit a county ordinance adopted pursuant to this act to be applicable within the municipality consistent with the provisions of G.S. 153A-122.

Section 2. This act applies only to Brunswick County.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law on the date it was ratified.

S.B. 350 **SESSION LAW 1999-88**

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE WITH RESPECT TO EXECUTION OF DEEDS AND THE DISPOSITION OF REAL PROPERTY BY PRIVATE SALE OR SUBJECT TO RESTRICTIONS OR BOTH.

The General Assembly of North Carolina enacts:

Section 1. Section 9.22 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws as amended by Chapter 216, Session Laws of 1967, Chapter 92 of the Session Laws of 1983, and Chapter 343 of the Session Laws of 1985, and as rewritten by Chapter 170 of the 1995 Session Laws, reads as rewritten:

"Section 9.22. Real Property. (a) The City Council shall have the power at all times to sell any real property belonging to the city after having advertised the same once a week for four (4) consecutive weeks in a newspaper published in Mecklenburg County following the procedure prescribed by the general laws of the State of North Carolina in the foreclosure of mortgages or deeds of trust under the power of sale therein contained; provided, that before any bid shall be deemed accepted or any sale made, or any title passed by virtue of said sale, such sale shall be confirmed by the City Council and said Council may, in its discretion, refuse confirmation, and when so authorized, a deed for said real estate may be executed by the Mayor or the Mayor's designee and attested by the City ~~Clerk,~~ Clerk or Deputy City Clerk, with the corporate seal of the city attached; provided, however, this Section shall not apply to plots in the cemetery except as to the manner of execution of the deed. In the sale of real estate, the city is authorized to execute deeds in the usual form and containing full covenants of warranty.

(b) The City Council is hereby authorized to sell, convey, transfer, or assign any or all right, title and interest in or to real property owned by the City of Charlotte to other governmental units at private sale, when in the judgment of the City, such real property is no longer needed or suitable for the purposes of the City, or when such sale is deemed to be in the public interest.

(c) The City may convey interests in real property owned by it by private negotiation or sale, with respect to parcels of property having a fair market value of ten thousand dollars ($10,000) or less, and Article 12 of Chapter 160A of the General Statutes shall not apply to such dispositions. The City Manager is authorized and empowered to approve such dispositions.

(d) The City may, in addition to other authorized means, convey real property owned by it to persons of low or moderate income for residential purposes using the negotiated offer, advertisement, and upset bid process and requirements established by G.S. 160A-269, provided, however, the City may lower the bid deposit requirement to an amount not less than one percent (1%) of an offeror's bid.

(e) When the City Council determines that a sale or disposition of property will advance or further any Council adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the City may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The City may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the City deems necessary to further such adopted policies or plans. The consideration received by the City, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this subsection may be conveyed only pursuant to resolution of the City Council authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;
(2) The nature of the interest to be conveyed; and
(3) All of the material terms of the proposed transaction,including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction. Notwithstanding the foregoing, the city may not sell the land or buildings located at 100 Paul Buck Boulevard by private sale."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of May, 1999.

Became law on the date it was ratified.

S.B. 468 **SESSION LAW 1999-89**

AN ACT CONCERNING CORNER LOT ASSESSMENT EXEMPTIONS BY THE CITY OF WINSTON-SALEM AND FORSYTH COUNTY.

Section 1. G.S. 160A-219 reads as rewritten:

"§ *160A-219. Corner lot exemptions.*

The council shall have authority to establish schedules of exemptions from assessments for corner lots when a project is undertaken along both sides of such lots. The schedules of exemptions shall be based on categories of land use (residential, commercial, industrial, or agricultural) and shall be uniform for each category. The schedule of exemptions may ~~not~~ provide for exemption of up to ~~more than~~ seventy-five percent (75%) of the frontage of any side of a corner lot, or ~~150~~ 200 feet, whichever is greater."

Section 2. G.S. 153A-187 reads as rewritten:

"§ *153A-187. Corner lot exemptions.*

The board of commissioners may establish schedules of exemptions from assessments for water or sewer projects for corner lots when water or sewer lines are installed along both sides of the lots. A schedule of exemptions shall be based on categories of land use (residential, commercial, industrial, and agricultural) and shall be uniform for each category. A schedule may ~~not~~ allow exemption of up to ~~more than~~ seventy-five percent (75%) of the frontage of any side of a corner lot, or ~~150~~ 200 feet, whichever is greater."

Section 3. This act applies only to the City of Winston-Salem, Forsyth County, and the City/County Utility Commission of Winston-Salem and Forsyth County, and to any property served by any of them. To the extent this act conflicts with Chapter 224 of the Private Laws of 1927, this act prevails.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of May, 1999.

Became law on the date it was ratified.

S.B. 675 **SESSION LAW 1999-90**

AN ACT TO MAKE TECHNICAL AMENDMENTS TO AN ACT WHICH REVIVED THE CHARTER OF THE TOWN OF UNIONVILLE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 62 of the Private Laws of 1911, as rewritten by S.L. 1998-151, reads as rewritten:

"Section 3. (a) That the elected officers of the town shall consist of a mayor and five commissioners, and the following persons shall fill the offices until the regular election in November of 1999: Mayor, Larry B. Simpson; commissioners, Kenneth J. Price, Jimmy Lee Baucom, Kenneth M. Brown, Jr., Robert L. Crouch, and Randy Keith Baucom. In the 1999 election, the three persons who receive the highest numbers of votes are elected for four-year terms as commissioners, and the two persons who receive the next highest numbers of votes are elected to two-year terms as commissioner. In 2001 and quadrennially thereafter, two commissioners are elected for four-year terms. In 2003 and quadrennially thereafter, three commissioners are elected for four-year terms. In 1999, a mayor shall be elected for a two-year term. In 2001 and quadrennially thereafter, a mayor is elected for a four-year term.

(b) Elections shall be conducted on a nonpartisan plurality basis and the results determined in accordance with G.S. 163-292."

Section 2. Section 7 of Chapter 62 of the Private Laws of 1911, as rewritten by S.L. 1998-151 reads as rewritten:

"Section 7. Said commissioners shall have and are hereby vested with all the powers conferred upon commissioners of towns and cities and subject to the performance of all the duties as such, conferred under the general ~~laws.~~ laws, except that the 60-day limitation in G.S. 160A-360(f) is extended to and including December 1, 1999."

Section 3. Section 2 of Chapter 62 of the Private Laws of 1911, as rewritten by S.L. 1998-151, is rewritten to read:

"Section 2. The boundaries set forth in this section follow the centerlines of the named roads and highways as they existed on the date of the general election in 1998, except where the existing property lines did not follow said centerlines, the boundaries shall extend only to the property line closest to the centerline of the road or highway. The boundaries of the Town of Unionville are as follows:

BEGINNING at the intersection of Friendly Baptist Church Road and Ridge Road; thence along and with Ridge Road in a generally southeast direction to the intersection of Ridge Road and U.S. Highway 601; thence with U.S. Highway 601 in a generally southwest direction approximately 400 feet to the southwest corner of parcel 9-174-12B; thence along and with the southern boundaries of the following properties: parcels 9-174-6G; 9-174-10; 9-174-6D; Country Ridge and Country Ridge, Sec. 2 as shown on plats recorded in Plat Cabinet B, Files 109A and 111A in the Office of the Union County Register of Deeds; the minor subdivision of Kelly Helms and wife, Pauline Helms as shown on plat recorded in Plat Cabinet B, File 343A

in the Office of the Union County Register of Deeds; thence with the eastern boundary of parcel 9-177-75 in a generally northerly direction to a point in the centerline of Baucom-Deese Road; thence with Baucom-Deese Road in a generally easterly direction to the intersection of Baucom-Deese Road with Morgan Mill Road; thence with Morgan Mill Road in a generally northeast direction to the intersection of Morgan Mill Road with Henry Baucom Road; thence extending past said intersection and running with the centerline of said road approximately 701 feet; thence in a generally northwesterly direction with the line of parcel 8-072-19 to said parcel's northernmost boundary line; thence with the northernmost boundary lines of the following properties: 8-072-19, 8-072-25A, and 8-072-25; thence generally north with the property lines of parcel 8-072-9 to the northernmost line of parcel 8-072-9; thence with the northernmost property lines of parcels 9, 9A, and 8B; thence in a generally southerly direction along and with the westernmost property lines of parcels 8-072-8B, 8-072-8D, and 8-072-8A to the centerline of Henry Baucom Road; thence with the centerline of said Road in a generally westerly direction to the intersection of Henry Baucom Road with Haigler-Baucom Road; thence with Haigler-Baucom Road in a generally northwest direction to the intersection of Haigler-Baucom Road with Sikes Mill Road; thence with Sikes Mill Road in a generally northerly direction to the intersection of Sikes Mill Road with Clontz-Long Road; thence in a generally westerly direction with Clontz-Long Road to the intersection of Clontz-Long Road with U.S. Highway 601; thence with U.S. Highway 601 in a generally southerly direction to the intersection of U.S. Highway 601 and Lawyers Road; thence with Lawyers Road in a generally westerly direction to the intersection of Lawyers Road and Friendly Baptist church Road; thence along and with Friendly Baptist Church Road to the point and place of the BEGINNING."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of May, 1999.

Became law on the date it was ratified.

H.B. 648 **SESSION LAW 1999-91**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF BENSON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Benson is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF BENSON.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Benson, North Carolina, in Johnston County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Benson', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Benson specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Johnston County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Board of Commissioners, hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Board; Composition; Terms of Office.** The Board shall be composed of six members to be elected in the manner provided in Article III for terms of four years, or until their successors are elected and qualified.

"Section 2.3. **Mayor; Duties.** The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article III for a term of two years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. Where there is an equal division upon any question, or upon the appointment of officers, the Mayor shall determine the matter by his or her vote, but he or she shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him or her by the general laws of North Carolina, by this Charter, and by the ordinances of the Town.

"Section 2.4. **Mayor Pro Tempore.** The Board shall choose one of its members to act as Mayor Pro Tempore, and he or she shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Section 2.5. **Meetings; Quorum.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.6. **Voting.** Four affirmative votes, which may include the vote of the Mayor in the event of equal division among the Board, shall be necessary to adopt any ordinance or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Section 2.7. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the

applicable provisions of the general laws not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall read: 'Be it ordained by the Board of Commissioners of the Town of Benson'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"Section 2.8. **Qualifications for Office; Compensation; Vacancies.** The qualifications and compensation of the Mayor and the Board shall be in accordance with general law. In the event a vacancy occurs in the office of Mayor, the Board shall by a majority vote appoint some qualified person to fill the same for the remainder of the unexpired term. Any vacancy on the Board shall be filled by majority vote of the remaining members of the Board for the remainder of the unexpired term. The person appointed to fill a vacancy in the office of Board member for District 1, 2, or 3 must reside in the district for which appointed.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality election method as provided in G.S. 163-279(a)(1) and G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in each regular municipal election.

"Section 3.3. **Election of Commissioners.** The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the 1999 election and every four years thereafter, three Commissioners shall be elected, one each for Districts 1, 2, and 3 as the same are described in Section 3.5 of this Article. Only voters residing in a district may vote for the Commissioner for that district. In the 2001 election and every four years thereafter, three Commissioners shall be elected by the voters of the entire Town.

"Section 3.4. **Voting.** In each election, each voter shall be entitled to vote for one candidate for Mayor. In each election in which Commissioners for Districts 1, 2, and 3 are being chosen, each voter shall be entitled to vote for one candidate for Commissioner for the district in which the voter resides. In each election in which the three Commissioners to be elected by the entire Town are being chosen, the names of all candidates for those offices shall be placed on a single ballot and each voter shall be entitled to vote for one candidate only.

"Section 3.5. **District Boundaries.** The Districts for the election of Commissioners are:

District 1. The eastern side of Town included within the following line beginning at the intersection of Market Street with the southern Town limits and running clockwise to the same point as follows: North on Market Street to Brocklyn Street, east on Brocklyn to the western side of Interstate 95, north along the western side of Interstate 95 one block to Harnett Street, west on Harnett one block to George Street, north on George (or the line

George would follow if extended north at that point) one block to Parrish Street, west on Parrish to Dunn Street, north on Dunn three blocks to Hill Street, east on Hill to Catherine Street, north on Catherine to Morris Avenue, east on Morris to Hall Street, north on Hall two blocks to Branch Street, west on Branch to Johnson Street, north on Johnson to U.S. Highway 301, east on 301 to the Town limits, then south and clockwise along the Town limits to the starting point.

District 2. The middle portion of the Town included between the western boundary of District 1 and the following line running south to north from its beginning at the intersection of Ryals Street and Mann Street at the southern Town limits: North on Ryals Street four blocks to Harnett Street, east on Harnett to Farmer Road, north on Farmer two blocks to Main Street, east on Main one block to Wall Street, north on Wall one block to Church Street, east on Church one block to the railroad tracks, north on the railroad tracks to the Town limits at U.S. Highway 301.

District 3. The western side of Town including all of the Town west of the line described above as the boundary for District 2.

"Section 3.6. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Board shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Board, so far as authorized by general law.

"Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Finance Director.** The Board shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Board.

"Section 4.5. **Tax Collector.** The Board shall appoint a Tax Collector pursuant to G.S. 105-349 to collect all taxes owed to the Town, subject to general law, this Charter, and Town ordinances.

"Section 4.6. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Section 4.7. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment by the Town

Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. REGULATORY JURISDICTION.

"Section 5.1. **Effect of Ordinances on Town Property.** All applicable ordinances of the Town shall have full force and effect upon and within all property, rights-of-way, and facilities owned or leased by the Town, whether located within or outside the corporate limits.

"ARTICLE VI. POLICE.

"Section 6.1. **Jurisdiction Extended.** In addition to their authority within the corporate limits, Town police shall have all the powers invested in law-enforcement officers by statute or common law within one and one-half miles of the corporate limits of the Town, and on all property owned by or leased to the Town wherever located.

"ARTICLE VII. STREETS AND SIDEWALKS.

"Section 7.1. **Assessments for Street Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making street improvements, the Board is authorized to order to be made or to make street improvements according to the standards and specifications of the Town and to assess the total costs, or a portion thereof, against abutting property owners in accordance with the provisions of this Article.

"Section 7.2. **When Petition Unnecessary.** The Board may order street improvements and assess the total costs or a portion thereof, exclusive of the costs incurred at street intersections, against the abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, without the necessity of a petition, upon the finding by the Board of one of the following:

(1) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement.

(2) That it is in the public interest to connect two streets or portions of a street already improved.

(3) That it is in the public interest to widen a street, or part thereof, that is already improved, except that assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving the street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Section 7.3. **Street Improvement Defined.** 'Street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, and repaving streets, the acquisition of rights-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

"Section 7.4. **Sidewalk Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making sidewalk improvements, the Board is authorized to order to be made or to make sidewalk improvements or repairs according to the standards and specifications of the Town, and to assess the total costs, or a portion thereof, against abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, except

that the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of the street.

"Section 7.5. **Assessment Procedure.** In ordering street or sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Section 7.6. **Effect of Assessments.** The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Section 7.7. **Acceptance of Conveyance in Satisfaction of Assessments.** The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Board first had and obtained, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of any street or sidewalk assessments outstanding and unpaid against the property. Such right, power, and authority shall be limited to conveyance of the whole of the lot or parcel of land against which the particular assessments involved were levied. No lot or tract of land may be divided and such right, power, and authority exercised as to a part of the property originally embraced in and covered by the assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessments against the property be foreclosed, but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street or sidewalk assessments.

"ARTICLE VIII. WATER AND SEWER.

"Section 8.1. **Corner Lot Exemptions.** The Board is hereby authorized to establish, by ordinance or resolution, schedules of exemptions for assessments for water and sewer line extensions for corner lots when water or sewer lines, or both, are installed along both sides of such lots and when the cost of such installation along both sides were or are financed in whole or in part by assessments. The schedules of exemptions may be classified as to land uses (residential, commercial, industrial, institutional, or agricultural) and shall be uniform for each such classification used, except that no schedule of exemptions may provide for exemption of more than fifty percent (50%) of the frontage on any side of a corner lot, or 150 feet, whichever is greater.

"Section 8.2. **Alternative Method of Assessment.** In addition to, and as an alternative, to the methods provided in G.S. 160A-218 for assessing the costs of water and sewer lines and laterals, the Board, if in its opinion it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by the lines, or (2)

on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

Instead of assessing the total cost of a particular project as herein provided, the Board may annually, between the first days of January and July of each year, determine the average cost of installing water and sewer mains or lines and on the basis of the determination may make assessments of the average cost during the following fiscal year beginning July 1. The average cost of the installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and material costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of the line shall not be made until after the particular assessment project has been completed. The purpose of this section is to: (1) distribute more equitably the cost of the installation of water and sewer lines throughout the Town; (2) permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his or her property will be; and (3) permit the most expeditious assessment of cost against property after completion of the installation of the lines. The actual cost of acquisition of rights-of-way may also be assessed as part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, the costs may be assessed separately when they are determined.

"ARTICLE IX. WATER AND SEWER LINE CHARGES.

"Section 9.1. **Water and Sewer Line Charges.** The authority of the Town to impose water and sewer line charges shall continue as authorized by S.L. 1989-477.

"ARTICLE X. CLAIMS AGAINST THE TOWN.

"Section 10.1. **Settlement of Claims by Town Manager.** The Board may authorize the Town Manager to settle claims against the Town for: (1) personal injuries or damages to property when the amount involved does not exceed the sum of five thousand dollars ($5,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred, and (2) the taking of small portions of private property that are needed for the rounding of corners at intersections of streets when the amount involved in any such settlement does not exceed five thousand dollars ($5,000) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in the settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved by the Town Attorney.

"ARTICLE XI. EXTRATERRITORIAL JURISDICTION.

"Section 11.1. **Jurisdiction Extended.** The area over which the Town exercises its extraterritorial jurisdiction may be extended pursuant to Chapter 804 of the 1986 Session Laws, any subsequent local acts, and any applicable general laws."

Section 2. The purpose of this act is to revise the Charter of the Town of Benson and to consolidate certain acts concerning the property,

affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The provisions of Article III of this act are intended to codify and continue, without change, the terms of the election plan ordered by the United States District Court for the Eastern District of North Carolina on November 22, 1988, in Johnson v. Town of Benson, No. 88-240.CIV-5.

Section 5. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 623 of the 1971 Session Laws, except Section 4.

Chapter 71 of the 1989 Session Laws.

Section 6. The Mayor and Board serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

Section 7. This act does not affect any rights or interests that arose under any provisions repealed by this act.

Section 8. All existing ordinances, resolutions, and other provisions of the Town of Benson not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 9. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 10. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 11. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute that most clearly corresponds to the statutory provision that is superseded or recodified.

Section 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of May, 1999.

Became law on the date it was ratified.

H.B. 649 **SESSION LAW 1999-92**

AN ACT TO ESTABLISH A NO-WAKE SPEED ZONE IN HOLDEN BEACH.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than a no-wake speed in the Intracoastal Waterway within the Town of Holden Beach

between the island area designated as Rogers Street and the eastern line of the L.S. Holden subdivision. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. With regard to marking the no-wake speed zone established in Section 1 of this act, the Town of Holden Beach, Brunswick County, or their designees may place and maintain the markers in accordance with the Uniform Waterway Marking System and any supplementary standards for such system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be sufficient in number and size as to give adequate warning of the no-wake speed zone to the vessels approaching from various directions.

Section 3. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 4. Violation of Section 1 of this act is a Class 3 misdemeanor.

Section 5. This act applies only to the Town of Holden Beach.

Section 6. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

In the General Assembly read three times and ratified this the 25th day of May, 1999.

Became law on the date it was ratified.

H.B. 880 **SESSION LAW 1999-93**

AN ACT TO SIMPLIFY THE COMPETITIVE BID PROCESS IN SEVERAL COUNTIES FOR CITY, COUNTY, AND PUBLIC SCHOOL PROJECTS OF FIVE HUNDRED THOUSAND DOLLARS OR LESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-132 reads as rewritten:

"*§ 143-132. Minimum number of bids for public contracts.*

(a) ~~No~~ Except as provided in subsection (b1) of this section, no contract to which G.S. 143-129 applies for construction or repairs shall be awarded by any board or governing body of the State, or any subdivision thereof, unless at least three competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor; however, this section shall not apply to contracts which are negotiated as provided for in G.S. 143-129. Provided that if after advertisement for bids as required by G.S. 143-129, not as many as three competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor, said board or governing body of the State agency or of a county, city, town or other subdivision of the State shall again advertise for bids; and if as a result of such second advertisement, not as many as three competitive bids from reputable and qualified contractors are received, such board or governing body may then let the contract to the lowest responsible bidder submitting a bid for such project, even though only one bid is received.

(b) For purposes of contracts bid in the alternative between the separate-prime and single-prime contracts, pursuant to G.S. 143-128(c) or (d), each single-prime bid shall constitute a competitive bid in each of the four subdivisions or branches of work listed in G.S. 143-128(a), and each full set of separate-prime bids shall constitute a competitive single-prime bid in meeting the requirements of subsection (a) of this section. If there are at least three single-prime bids but there is not at least one full set of separate-prime bids, no separate-prime bids shall be opened.

(b1) When the entire cost of construction or repairs is five hundred thousand dollars ($500,000) or less, a county, city, as defined in G.S. 160A-1(2), or local school administrative unit may award a contract if at least two competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor. If after advertisement for bids as required by G.S. 143-129, fewer than two such competitive bids have been received, the governing body of the county, city, or local board of education shall again advertise for bids. If, as a result of the second advertisement, only one such competitive bid is received from a responsible bidder, the governing body may let the contract to that bidder.

For purposes of contracts bid in the alternative between the separate-prime and single-prime contracts, pursuant to G.S. 143-128(c) or (d), each single-prime bid shall constitute a competitive bid in each of the four subdivisions or branches of work listed in G.S. 143-128(a), and each full set of separate-prime bids shall constitute a competitive single-prime bid in meeting the requirements of this subsection. For purposes of this subsection, a single-prime bid and a full set of separate-prime bids made by the same contractor shall constitute only one competitive bid. If there are at least two single-prime bids but there is not at least one full set of separate-prime bids, no separate-prime bids shall be opened.

(c) The State Building Commission shall develop guidelines no later than January 1, 1991, governing the opening of bids pursuant to this Article. These guidelines shall be distributed to all public bodies subject to this Article. The guidelines shall not be subject to the provisions of Chapter 150B of the General Statutes."

Section 2. This act applies only to Alamance, Beaufort, Currituck, Camden, Pasquotank, and Perquimans County and to municipalities and local school administrative units within those counties.

Section 3. This act becomes effective July 1, 1999, and applies to projects advertised on or after that date.

In the General Assembly read three times and ratified this the 25th day of May, 1999.

Became law on the date it was ratified.

S.B. 691 **SESSION LAW 1999-94**

AN ACT TO INCORPORATE THE TOWN OF BERMUDA RUN AND TO SIMULTANEOUSLY DISSOLVE THE BERMUDA CENTER SANITARY DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. In accordance with G.S. 130A-81(1a), the Town of Bermuda Run is incorporated and the Bermuda Center Sanitary District is simultaneously dissolved. The incorporation and dissolution are not subject to referendum.

Section 2. A Charter for the Town of Bermuda Run is enacted to read:

"CHARTER OF THE TOWN OF BERMUDA RUN.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Bermuda Run are a body corporate and politic under the name 'Town of Bermuda Run'. The Town of Bermuda Run has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Bermuda Run are as follows:

Being the following tracts and parcels of land located in Davie County, North Carolina, and being more particularly described as follows:

TRACT 1:

BEGINNING at an iron pin located in the western right-of-way line of N.C. Hwy. 801, said iron pin being the southeast corner of the property owned, now or formerly, by Thad J. Bingham (Deed Book 155, Page 348) running thence with the western right-of-way line of N.C. Hwy. 801 South 08° 10' 24" East 1912.47 feet to an iron pin; thence leaving the right-of-way line of N.C. Hwy. 801, South 72° 59' 35" West 15.00 feet to an iron pin marking the northeast corner of Lot 1 Hidden Creek; thence with the northern line of Lot 1, South 72° 59' 35" West 224.95 feet to an iron pin at the northwest corner of Lot 1 and the northeast corner of Lot 2 Hidden Creek; thence with the northern line of Lots 2 and 3 Hidden Creek, South 66° 20' 15" West 360.27 feet to an iron pin located at the northwest corner of Lot 3 and the northernmost corner of Lot 4 Hidden Creek; thence with the northwest lines of Lots 4 and 5 Hidden Creek, South 35° 56' 00" West 303.72 feet to an iron pin located at the westernmost corner of Lot 5 Hidden Creek and in the northeast line of Hyfield Drive; thence crossing Hyfield Drive and with the northwest lines of Lots 6, 7 and 8 Hidden Creek, South 47° 14' 57" West 399.60 feet to an iron pin located at the northwest corner of Lot 8 and the northeast corner of Lot 9 Hidden Creek; thence with the eastern lines of Lots 34, 35, 36, 37, 38, 39 and 40 Hidden Creek (and crossing Creekside Drive between Lots 37 and 38) North 10° 45' 05" West 920.73 feet to an iron pin; thence with the northeast lines of Lots 40, 41, 42 and 43 Hidden Creek, North 41° 21' 21" West 493.44 feet to an iron pin at the northernmost corner of Lot 43 Hidden Creek, said iron pin also being in the southeast line of Seldem Farm Lane; thence with the southeast line of Seldem Farm Lane, North 48° 46' 18" East 40.00 feet to an iron pin; thence crossing Seldem Farm Lane and with the northeast line of Lot 44 Hidden Creek, North 41° 22' 04" West 260.00 feet to an iron pin;

thence with the northwest lines of Lots 44, 45, 46 and 57 Hidden Creek (and crossing Talwood Drive between Lots 45 and 46) South 48° 39' 39" West 630.21 feet to an iron pin; thence South 26° 20' 51" East 144.72 feet to an iron pin located in the northern line of Creekside Drive; thence with the line of Creekside Drive on a curve to the left having a radius of 59.00 feet, a length of 131.81 feet, a chord bearing and distance of South 29° 12' 34" West 106.06 feet to a point; thence leaving the right-of-way line of Creekside Drive, South 55° 12' 28" West 105.00 feet to an iron pin; thence South 04° 47' 21" East 510.00 feet to an iron pin located at the northeast corner of the property owned, now or formerly, by Ralph and Renai Holland (Deed Book 176, Page 558); thence with the northern line of said Holland, North 87° 21' 41" West 596.11 feet to an iron pin located in the eastern line of property owned, now or formerly, by Oak Valley Associates (Deed Book 169, Page 331); thence with the eastern line of Oak Valley, North 04° 11' 45" East 1830.87 feet to a post located in the southern line of property owned, now or formerly, by Ervin and Eva Wilson (Deed Book 42, Page 468); thence with the southern line of said Wilson, North 73° 05' 24" East 38.74 feet to a concrete post located at Wilson's southeast corner; thence with the eastern line of Wilson and continuing with the eastern line of property owned, now or formerly, by William and Peggy Long (see Estate File 90E-127), North 02° 42' 46" East 593.04 feet to a concrete post located at the northeast corner of Long and located in the southern line of property owned, now or formerly, by Roy L. Potts (Deed Book 112, Page 274); thence with the southern line of Potts, South 87° 31' 30" East 950.91 feet to an iron pin located at the southeast corner of Roy L. Potts and at the southwest corner of Thad J. Bingham (Deed Book 155, Page 348); thence with the southern line of Bingham, South 86° 34' 27" East 1351.89 fee to the point and place of BEGINNING and containing approximately 116.501 acres, more or less, as shown on the survey prepared by Marvin S. Cavanaugh & Associates dated March 27, 1998, Drawing No. 98-40B, reference to which is hereby made for a more particular description.

TRACT 2:

All of the property in Davie County, North Carolina, located:

(A) West of the Yadkin River;

(B) South of the center line of U.S. Hwy. 158;

(C) East of the centerline of N.C. Hwy. 801; and

(D) North of a line described as follows:

BEGINNING at an iron pin located at the intersection of the eastern line of N.C. Hwy. 801 and the northern line of Lybrook Drive (S.R. 1660) and running with the northern line of Lybrook Drive and the southern line of Jamesway Subdivision, North 80° 55' 58" East approximately 1,346 feet to the southwest corner of property owned by John C. Brendle (Deed Book 120, Page 448); thence with the western line of Brendle and Philip McKenzie (Deed Book 94, Page 503), in a northerly direction approximately 815 feet; thence continuing with the line of McKenzie in a easterly direction of 42 feet; thence continuing with the western line of McKenzie in a northerly direction approximately 262 feet to the southern line of Jamesway Subdivision; thence with the northern line of McKenzie, South 78° 58' 16" East 158.01 feet; thence South 04° 21' 19" East 55.69 feet; thence in a

southeasterly direction with the northeast line of McKenzie approximately 87 feet to the western line of Highlands at Bermuda Run Subdivision (Plat Book 6, Page 17 and 18); thence in a southerly direction approximately 1,527 feet with the western line of Lots 20, 19, 18, 17, 16, 15, 14 and 13 to a point located in the northern line of Lots 13 Raintree Estates; thence with the northern line of said Lot 13 Raintree Estates and the southern line of Lot 13 of the Highlands Subdivision, South 75° 29' 22" East 77.63 feet to an iron pin; thence with the center of a branch in an easterly direction with the southern lines of Lots 13 and 12 Highlands Subdivision, and the northerly line of Gary Honbarrier (Deed Book 142, Page 640), approximately 475 feet to the southeast corner of Lot 12 Highlands; thence South 61° 55' 26" East 38.12 feet to a point; thence south 23° 38' 27" East 238.04 feet to a point; thence South 23° 35' 52" East 44.80 feet to a monument; thence South 85° 37' 48" East 304.96 feet to a stone and North 74° 32' 02" East 540.71 feet to an iron located on the western bank of the Yadkin River, it being the intention to include, without limitation, all the property conveyed to: (1) WFBRCC, LLC at Book 201, Page 445; Bermuda Village, Inc. at Book 117, Page 197; William A. Burnette at Deed Book 130, Page 233, Deed Book 158, Page 828 and Book 162, Page 775; and all property shown on the following plats recorded in the Davie County Registry: (1) Highlands at Bermuda Run (Plat Book 6, Pages 17 and 18); (2) River Hill (Plat Book 5, Page 212 and 213); (3) Jamesway at Bermuda Run (Plat Book 6, Pages 46, 47 and 48); (4) Hamilton Court (Plat Book 5, Pages 195, 203, 207 and 224); (5) Pembrook Ridge (Plat Book 5, Page 145); (6) St. George Place (Plat Book 5, Page 192); (7) Bermuda Run Golf and Country Club (Plat Book 4, Pages 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 103, 116, 148, 156; Book 5, Pages 2, 13, 15, 24, 28, 31, 32, 34, 36, 39, 43, 44, 45, 46, 86, 94, 100) and (8) Warwick Place (Plat Book 5, Page 171).

Less and except, however, that certain property located Southeast of the intersection of U.S. Hwy. 158 and North Carolina Hwy. 801 and being shown on Davie County Tax Map D-8-8, and designated as parcels C-2, C-3, C-4, C-5, C-5.01, C-7, C-8 and D-8.

TRACT 3:

All property located within the right-of-way of N.C. Hwy. 801 to the extent such segment of the right-of-way is bounded on the west by Tract 1 above AND on the east by Tract 2 above.

"Section 2.2. **Electoral District Boundaries.** Until modified in accordance with the law, the boundaries of the five electoral districts of the Town of Bermuda Run are as follows:

(1) Bermuda Village District consisting of residents of Bermuda Village.

(2) South District consisting of residents of Hamilton Court, Pembrook Ridge, St. George, River Hills, Jamesway, Highland Hills, and Warwicke subdivisions.

(3) Multifamily district consisting of residents of the Maisonettes, Spy Glass Hill, Golfview, and the Lakes subdivision.

(4) West district consisting of all residents of Juniper Circle, Fairway Villas, Fescue Drive, Ivy Circle, Helleri Circle, and Rotunda

Circle, and the residents of Riverbend Drive, from Address 675 to Address 1056.

(5) East district consisting of all the residents not included in any other district.

The Town Council shall set and change the boundaries of and add or delete electoral districts by resolution.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Bermuda Run shall be the Town Council, which shall have five members, and the Mayor.

"Section 3.2. **Manner of Electing Council.** The qualified voters of each of the five electoral districts in the Town shall nominate one or more individuals and then elect one member of the Town Council. An individual must reside in the district to be eligible for nomination and election to the Council from a district and for service on the Council as the member for a district.

"Section 3.3. **Term of Office of Council Members.** Members of the Council shall be elected to four-year terms. In 1999, five members of the Council shall be elected. The three persons receiving the highest number of votes shall be elected for four-year terms, and the two persons receiving the next highest number of votes shall be elected for two-year terms. In 2001 and biennially thereafter, all members whose terms expire in those years shall be elected for four-year terms.

"Section 3.4. **Election of Mayor and Term of Office.** In 1999 and quadrennially thereafter, the qualified voters of the entire Town shall nominate and elect the Mayor, who shall serve a four-year term. The Mayor shall have the right to vote only to break tie votes of the Council. In determining a quorum, the Mayor shall be treated as a member of the Council.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Town officers shall be nominated and elected on a nonpartisan basis as provided in G.S. 163-294.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes with the first election of Town officers to be held in November, 1999.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Council-Manager Form.** The Town of Bermuda Run will operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Officers and Employees.** The Council may appoint such officers and employees as may be necessary, and they shall serve at the pleasure of the Council. The Council shall fix all salaries, prescribe bonds, and require such oaths as they may deem necessary.

"Section 5.3. **Town Clerk.** The Council may appoint a Town Clerk who shall keep the records of the Council and perform other duties as may be required by general law or the Council.

"Section 5.4. **Assignment of Duties.** The Council may assign additional functions or duties to offices, departments, or agencies. Where positions are not incompatible, the Council may confer the powers and duties of two or more offices created or authorized by this Charter to one person.

"Section 5.5. **Transitional Government.** Until the Mayor and members of the Town Council are elected and qualified in accordance with this Charter and the laws of this State, the following persons shall serve on the Town's interim governing body: Clyde J. Gardner, Mayor, Robert W. Griffin, Charles H. Quinn, Bob L. Cornish, Edwin J. Titsworth, and John H. Ferguson. Vacancies on the Interim Council shall be filled by appointment by the remaining members of the Interim Council. A vacancy in the office of Interim Mayor shall be filled by appointment by the Bermuda Run Incorporation Committee.

"CHAPTER VI.

"SPECIAL PROVISIONS.

"Section 6.1. **Annexation.** The Town of Bermuda Run shall not annex any property without the vote or consent of a majority of the residents of any such property.

"Section 6.2. **Property Taxes.** The Town of Bermuda Run shall not increase its property tax rates in excess of fifteen cents ($0.15) per one hundred dollars ($100.00) of valuation without the vote or consent of a majority of the residents of the Town in accordance with G.S. 160A-209(f)."

Section 3. From and after July 1, 1999, the citizens and property in the Town of Bermuda Run shall be subject to municipal taxes levied for the fiscal year beginning July 1, 1999, and for that purpose, the Town shall obtain from Davie County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the Act insofar as is practical.

Section 4. The incorporation of the Town of Bermuda Run and the simultaneous dissolution of the Bermuda Center Sanitary District shall become effective at 12:00 noon on the first day of the first calendar month starting at least seven days after this act becomes law. The Bermuda Center Sanitary District shall take all actions necessary to effect this transfer of the assets and liabilities of the Sanitary District to the Town of Bermuda Run by three days before its dissolution.

Section 5. The transitional provisions of G.S. 130A-81(5) a. through g. shall apply to the Town of Bermuda Run and the Bermuda Center Sanitary District.

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of May, 1999.

Became law on the date it was ratified.

H.B. 772 **SESSION LAW 1999-95**

AN ACT TO ESTABLISH A NO-WAKE ZONE IN THE WATERS OF LEE'S CUT.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than no-wake speed in the waters of Lee's Cut in New Hanover County. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. The municipality or county with jurisdiction over the area of Lee's Cut may place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for that system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be in sufficient number and size to give adequate warning of the no-wake speed zone to vessels approaching from various directions.

Section 3. Violation of this act is a Class 3 misdemeanor.

Section 4. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 5. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water to mark the no-wake zone.

In the General Assembly read three times and ratified this the 26th day of May, 1999.

Became law on the date it was ratified.

S.B. 898 **SESSION LAW 1999-96**

AN ACT TO INCREASE THE NUMBER OF DAYS WITHIN WHICH A BOARD OF EDUCATION MUST HOLD A TEACHER DISMISSAL HEARING, TO CLARIFY THAT THE SUPERINTENDENT'S DESIGNEE MAY BE PRESENT AT THE CASE MANAGER HEARING, TO ALLOW TIME FOR THE SUPERINTENDENT TO OBTAIN A COPY OF THE CASE MANAGER TRANSCRIPT, TO DECREASE THE NUMBER OF DAYS WITHIN WHICH THE SUPERINTENDENT MUST PROVIDE A LIST OF WITNESSES FOR A BOARD HEARING ON A REDUCTION IN FORCE, TO CHANGE THE DATE WHEN LOCAL BOARDS MUST NOTIFY TEACHERS WHETHER THEIR PROBATIONARY CONTRACTS HAVE BEEN RENEWED, TO REPEAL THE PROFESSIONAL PRACTICES BOARD, AND TO LIMIT THE NONINSTRUCTIONAL DUTIES ASSIGNED TO TEACHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-325(h)(3) reads as rewritten:

"(3) Within the 14-day period after receipt of the notice, the career employee may file with the superintendent a written request for either (i) a hearing on the grounds for the superintendent's proposed recommendation by a case manager or (ii) a hearing

within ~~five~~ 10 days before the board on the superintendent's recommendation. If the career employee requests an immediate hearing before the board, he forfeits his right to a hearing by a case manager. If no request is made within that period, the superintendent may file his recommendation with the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the employee without pay. If a request for review is made, the superintendent shall not file his recommendation for dismissal with the board until a report of the case manager is filed with the superintendent."

Section 2. G.S. 115C-325(j)(3) reads as rewritten:

"(3) At the hearing the career employee and the ~~superintendent~~ superintendent or the superintendent's designee shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether grounds for dismissal or demotion exist or whether the procedures set forth in G.S. 115C-325 have been followed."

Section 3. G.S. 115C-325(j1)(1) reads as rewritten:

"(1) Within two days after receiving the superintendent's notice of intent to recommend the career employee's dismissal to the board, the career employee shall decide whether to request a hearing before the board and shall notify the superintendent, in writing, of the decision. If the career employee can show that the request for a hearing was postmarked within the time provided, the career employee shall not forfeit the right to a board hearing. Within two days after receiving the career employee's request for a board hearing, the superintendent shall request that a transcript of the case manager hearing be made. Within two days of receiving a copy of the transcript, the superintendent shall submit to the board the written recommendation and shall provide a copy of the recommendation to the career employee. The superintendent's recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the case manager's ~~report.~~ report and a copy of the transcript of the case manager hearing."

Section 4. G.S. 115C-325(j3)(5) reads as rewritten:

"(5) At least ~~10~~ eight days before the hearing, the superintendent shall provide to the career employee a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the superintendent intends to present."

Section 5. G.S. 115C-325(o) reads as rewritten:

"(o) Resignation; Nonrenewal of Contract. -- A teacher, career or probationary, should not resign without the consent of the superintendent unless he has given at least 30 days' notice. If the teacher does resign without giving at least 30 days' notice, the board may request that the State

Board of Education revoke the teacher's certificate for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

A probationary teacher whose contract will not be renewed for the next school year shall be notified of this fact by June ~~1~~ 15."

Section 6. G.S. 115C-295.3 is repealed.

Section 7. G.S. 115C-47 is amended by adding a new subdivision to read:

"(18a) To Adopt Rules and Policies Limiting the Noninstructional Duties of Teachers. -- Local boards of education shall adopt rules and policies limiting the noninstructional duties assigned to teachers. A local board may temporarily suspend the rules and policies for individual schools upon a finding that there is a compelling reason the rules or policies should not be implemented. These rules and policies shall ensure that:

a. Teachers with initial certification are not assigned extracurricular activities unless they request the assignments in writing and that other noninstructional duties assigned to these teachers are minimized, so these teachers have an opportunity to develop into skilled professionals;

b. Teachers with 27 or more years of experience are not assigned extracurricular activities unless they request the assignments in writing and that other noninstructional duties assigned to these teachers are minimized, so these teachers have an opportunity to informally share their experience and expertise with their colleagues;

c. The noninstructional duties of all teachers are limited to the extent possible given federal, State, and local laws, rules, and policies, and that the noninstructional duties required of teachers are distributed equitably among employees."

Section 8. G.S. 115C-296(e) reads as rewritten:

"(e) The State Board of Education shall develop a mentor program to provide ongoing support for teachers entering the profession. In developing the mentor program, the State Board shall conduct a comprehensive study of the needs of new teachers and how those needs can be met through an orientation and mentor support program. For the purpose of helping local boards to support new teachers, the State Board shall develop and distribute guidelines which address optimum teaching load, extracurricular duties, student assignment, and other working condition considerations. These guidelines shall provide that initially certified teachers not be assigned extracurricular activities unless they request the assignments in writing and that other noninstructional duties of these teachers be minimized. The State Board shall develop and coordinate a mentor teacher training program. The State Board shall develop criteria for selecting excellent, experienced, and qualified teachers to be participants in the mentor teacher training program."

Section 9. This act is effective when it becomes law. Sections 1, 2, 3, and 4 apply to proceedings initiated on or after that date.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law upon approval of the Governor at 9:45 a.m. on the 27th day of May, 1999.

S.B. 395 **SESSION LAW 1999-97**

AN ACT RELATING TO THE CABARRUS COUNTY TOURISM AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 2(a) of Chapter 658 of the 1989 Session Laws reads as rewritten:

"Sec. 2. **Establishment, Appointment, and Duties of Cabarrus County Tourism Authority**. (a) Establishment and Membership. When the Cabarrus County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall establish and create the Cabarrus County Tourism Authority composed of nine members, with seats on the Authority numbered one through nine, all of whom shall be appointed by the board, selected as follows:

(1) Seats 1, 4, and 7 shall be selected by the board at large and shall include, but not be limited to, at least one member of the board or the Cabarrus County Manager;

(2) Seats 2, 5, and 8 shall be appointed by the board from a list of at least three persons submitted by the ~~Concord-Cabarrus Chamber of Commerce;~~ Cabarrus County Tourism Authority; and

(3) Seats 3, 6, and 9 shall be appointed by the board from a list of at least three persons submitted to the board by the ~~Kannapolis~~ Cabarrus Regional Chamber of Commerce."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law on the date it was ratified.

S.B. 543 **SESSION LAW 1999-98**

AN ACT RELATING TO ZONING BY FORSYTH COUNTY, THE TOWNS OF KERNERSVILLE AND LEWISVILLE, AND THE VILLAGE OF CLEMMONS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Section 1. Section 23 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended as follows: by inserting between the first and second paragraphs thereof the eight following paragraphs:

'The Board of Aldermen of the City of Winston-Salem is hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate in any portion or portions of the City of

Winston-Salem the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the City may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the City may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Winston-Salem to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety and general welfare. The act of issuing a special use district permit shall be deemed to be a legislative act of the Board of Aldermen, and the procedural standards applicable to the legislative acts shall apply to the consideration and issuance of a special use permit.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may

find ~~appropriate, but not to include architectural review or controls.~~ appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.'"

Section 2. Section 2 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Sec. 2. Section 25 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended by inserting the seven following paragraphs after the first paragraph therein:

'For any or all these purposes, the County may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the County may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Forsyth County to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of County Commissioners of a special use district permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of County Commissioners may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of County Commissioners is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board determines to be desirable in promoting public health, safety and general welfare. The act of issuing a special use district permit shall be deemed to be a legislative act of the Board of County Commissioners, and the procedural standards applicable to the

legislative acts shall apply to the consideration and issuance of a special use permit.

The conditions contained in a special use permit issued by the Board may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board may find appropriate, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.'"

Section 3. The Charter of the Town of Kernersville, being Chapter 381 of the 1989 Session Laws, is amended by adding a new section to read:

"Sec. 27.1. **Zoning.** The Board of Aldermen of the Town of Kernersville is hereby empowered by ordinance to regulate in any portion or portions of the Town the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry, or other purposes.

For any or all of these purposes, the Town may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Town may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the

petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety, and general welfare. The act of issuing a special use district permit shall be deemed to be a legislative act of the Board of Aldermen, and the procedural standards applicable to the legislative acts shall apply to the consideration and issuance of a special use permit.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 4. The Charter of the Town of Lewisville, being Chapter 116 of the 1991 Session Laws, is amended by adding a new section to read:

"Section 5-3. **Zoning.** The Town Council of the Town of Lewisville is hereby empowered by ordinance to regulate in any portion or portions of the Town the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry, or other purposes.

For any or all of these purposes, the Town may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Town may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Town Council of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Town Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Town Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Town Council shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Town Council determines to be desirable in promoting public health, safety, and general welfare. The act of issuing a special use district permit shall be deemed to be a legislative act of the Town Council, and the procedural standards applicable to the legislative acts shall apply to the consideration and issuance of a special use permit.

The conditions contained in a special use permit issued by the Town Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Town Council may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 5. The Charter of the Village of Clemmons, being Section 7 of Chapter 437 of the 1985 Session Laws, is amended by adding a new Article to read:

"ARTICLE VII. ADMINISTRATION.

"Sec. 7.1. **Zoning.** The Village Council of the Village of Clemmons is hereby empowered by ordinance to regulate in any portion or portions of the Village the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry, or other purposes.

For any or all of these purposes, the Village may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from

those in other districts; provided, however, that the Village may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Village Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Village Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Village Council shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Village Council determines to be desirable in promoting public health, safety, and general welfare. The act of issuing a special use district permit shall be deemed to be a legislative act of the Village Council, and the procedural standards applicable to the legislative acts shall apply to the consideration and issuance of a special use permit.

The conditions contained in a special use permit issued by the Village Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law on the date it was ratified.

S.B. 573 **SESSION LAW 1999-99**

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO ENGAGE IN PUBLIC-PRIVATE PROJECTS OUTSIDE THE DOWNTOWN AREA.

The General Assembly of North Carolina enacts:

Section 1. Section 7.109 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, as added by Chapter 55 of the 1981 Session Laws, reads as rewritten:

"Sec. 7.109. ~~Uptown~~ Public-private development projects.

(a) Definition. In this Article, '~~uptown~~ public-private development projects' means a capital project located: (i) in the city's central business district, as defined by the city ~~council,~~ council; (ii) in or along a major transportation corridor; or (iii) in a development zone designated pursuant to G.S. 105-129.3A; comprising one or more buildings or other improvements and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

(b) Authorization. If the city council finds that it is likely to ~~have a significant effect on the revitalization of the central business district,~~ be of significant economic benefit to the area of the city in which the project is located, the city may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of ~~an uptown~~ a public-private development project or of specific facilities within such a project. The city may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract shall among other provisions, specify the following:

(1) The property interest of both the city and the developer or developers in the project.

(2) The responsibilities of the city and the developer or developers for construction of the project.

(3) The responsibilities of the city and the developer or developers with respect to financing the project.

(4) The responsibilities of the city and the developer or developers with respect to the operation of the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

(c) Property acquisition. ~~An uptown~~ A public-private development project may be constructed on property acquired by the developer or developers or on property directly acquired by the city by purchase.

(d) Property disposition. In connection with ~~an uptown~~ a public-private development project, the city may lease or convey interests in property owned by it, including air rights over public facilities, by private negotiation or sale, and Article 12 of Chapter 160A of the General Statutes does not apply to such dispositions.

(e) Construction of the project. The contract between the city and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire ~~uptown~~ public-private development project. If so, the contract shall include such provisions as the city council deems sufficient to assure that the public facility or facilities included in the project meet the needs of the city and are constructed at a reasonable price. A project constructed pursuant to this paragraph is not subject to Article 8 of Chapter 143 of the General ~~Statutes.~~ Statutes as long as city funds constitute not more than fifty percent (50%) of the total costs of the project.

(f) Operation. The city may contract for the operation of any public facility or facilities included in ~~an uptown~~ a public-private development project by a person, partnership, firm, or corporation, public or private. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the city.

(g) Grant funds. To assist in the financing of its share of ~~an uptown~~ a public-private development project, the city may apply for, accept and expend grant funds from the federal or State governments."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law on the date it was ratified.

S.B. 583 **SESSION LAW 1999-100**

AN ACT TO AMEND THE LAW ESTABLISHING THE CHARLOTTE FIREMEN'S RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 830 of the 1991 Session Laws, as amended by Chapter 171 of the 1995 Session Laws and Chapter 640 of the 1993 Session Laws, which rewrote Chapter 926 of the 1947 Session Laws, as amended, reads as rewritten:

"Section 1. Chapter 926, 1947 Session Laws, as amended, is rewritten to read:

TITLE I. PREFACE.

Section 1. **Introduction.** The Charlotte Firemen's Retirement System heretofore established pursuant to the provisions of Chapter 926 of the 1947 Session Laws, as amended, is hereby continued and shall hereafter be known as the Charlotte Firefighters' Retirement System. The purpose of the Charlotte Firefighters' Retirement System shall be to provide retirement, disability and survivor benefits for the uniformed employees of the Charlotte Fire Department who are entitled thereto under the provisions of this act. This act shall be officially known and may be referred to as the Charlotte Firefighters' Retirement System Act.

Sec. 2. **Definitions.** The following words and phrases as used in this act shall have the indicated meanings unless a different meaning is clearly required by the context.

(1) 'Accrued Benefit' means the amount of monthly retirement benefits earned by a Member computed, as of any date, on his Final Average Salary and Membership Service Credit as of such date. In no event shall the Accrued Benefit be less than the Accrued Benefit as of June 30, 1986.

(1a) 'Act' means Chapter 926 of the 1947 Session Laws, as amended.

(2) 'Actuarial Equivalent' means a benefit payable by the System that is determined by the Actuary to be equal to the basic benefit provided by the System based on the interest rate and the mortality and other tables and assumptions adopted for such purposes by the Board of Trustees. In no event shall any Actuarial Equivalent be less than the corresponding Actuarial Equivalent as of June 30, 1987, based on the Accrued Benefit and the assumptions in effect on that date.

(3) 'Actuarial Valuation' or 'Valuation' means a determination of the normal costs, actuarial accrued liability, actuarial value of assets and related actuarial present values of the System performed by an Actuary which are based on the characteristics of the System. Such characteristics include, but are not limited to, age, service, salaries, and rate of turnover by death, disability, termination or retirement.

(3a) 'Adjustment Factor' means the cost of living adjustment factor prescribed by the Secretary of the Treasury under section 415(d) of the Code for years beginning after December 31, 1987, applied to those items and in the manner the Secretary prescribes.

(4) 'Armed Forces' means the Armed Forces of the United States of America.

(5) 'Audit' means an examination of the accounting records of the System performed by a certified public accountant or certified public accounting firm. Such examination is to determine if said records are properly maintained and to make recommendations and suggestions for better record-keeping and management.

(6) 'Beneficiary', 'Designated Beneficiary', or 'Surviving Beneficiary' means any person, or persons, who is in receipt of, or who is designated in writing to receive, a retirement benefit or other benefit as provided in this act.

(7) 'Board of Trustees', 'Board' or ~~'Trustee'~~ 'Trustees' means the Board of Trustees of the Charlotte Firefighters' Retirement System, as specified in Section 29, or any individual Member thereof.

(8) 'City' means the City of Charlotte.

(8a) 'Code' means the Internal Revenue Code of 1986, as amended.

(9) 'Compensation' means the remuneration earned by a Member for services performed as an employee of the Charlotte Fire Department and for which contributions are made to the System. Compensation shall include compensation received during the applicable period by the Member from the City for services performed as an employee of the Charlotte Fire Department during the taxable year ending with or within the Plan Year that is required to be reported as wages on the Member's Form W-2. Compensation also includes compensation realized during the applicable period that is not currently includable in the Member's gross income by reason of the application of sections 125, 401(k), 402(a)(8), 402 (h)(1)(B), 403(b), or 457 of the Code. For the purpose of calculating a Member's Final Average Salary, any lump sum payments for which contributions were made to the System, such as longevity pay and bonus payments, and received by said Member within two consecutive years of Membership Service shall be apportioned over the previous Membership Service for which the payment(s) was earned.

(9a) 'Death Benefit Recipient' means any person who is in receipt of benefits payable as specified in Section 21.

(10) 'Effective Date' of this amended and restated act means July 1, ~~1989,~~ 1999, unless otherwise specified herein.

(11) 'Final Average Salary' means the monthly average Compensation received by a Member during any two consecutive years of Membership Service which produces the highest average and is contained within the Member's last five years of Membership Service. If a Member has less than two years of Membership Service, his Final Average Salary shall mean the monthly average Compensation for his total Membership Service. Effective July 1, 1989, if the Member's monthly benefit, as calculated pursuant to Section 17(a) of this act, exceeds one hundred percent (100%) of his Final Average Salary, as defined by this subdivision, then 'Final Average Salary' means the monthly average Compensation received by a Member during any three consecutive years of Membership Service during which the Member was an active Member of the Retirement System and had the greatest aggregate Compensation from the City. If a Member has fewer than three years of Membership Service, his Final Average Salary shall mean the monthly average Compensation for his total Membership Service.

(12) 'He', 'Him', 'His', and any other pronouns and terms shall be used when referring to both male and female Members and/or Beneficiaries of this System, and vice versa.

(13) 'Investment Fiduciary' means any person, or persons, who exercises any discretionary authority or control in the investment of the System's assets and/or renders investment advice for a fee to the System.

(14) 'Majority Vote' means that number of votes which is more than fifty percent (50%) of the System Members casting ballots.

(15) 'Member' means an employee of the Charlotte Fire Department who is subject to the provisions of the Civil Service Act contained in Chapter 333 of the 1969 Session Laws as amended, and, in addition, shall include the chief of the fire department where the chief was subject to the provisions of the Civil Service Act immediately prior to being appointed fire chief, and any probationary employee or officer of the fire department under the Civil Service Act.

(16) 'Membership Service Credit' or 'Membership Service' means the amount of service credited to a Member as provided in this act to determine what, if any, benefits are due him.

(17) 'Participant' means any Member, Retiree, Beneficiary in receipt of benefits or a former Member with a deferred Accrued Benefit.

(17a) 'Qualified Participant' means a Participant who is in a defined benefit plan that is maintained by a State or a political subdivision thereof; and

a. Who has at least 15 years of Membership Service Credit as a full-time employee of any police department or fire department that is organized and operated by the State or a political subdivision, that maintains such a defined benefit plan; or

b. Who is a member of the armed forces of the United States.

(18) 'Retiree' means any person who retires with a retirement benefit payable by the System.

(19) 'Retirement System' or 'System' means the Charlotte Firefighters' Retirement System.

(20) 'Total Contributions' means the sum of the amounts paid by or on behalf of a Member and credited to his individual account by the System.

(20a) 'Trustee' means any individual member of the Board of Trustees of the Charlotte Firefighters' Retirement System, as specified in Section 29 of this act.

(21) 'Year,' 'Plan Year,' or 'Limitation Year' means the twelve months from July 1 through June 30.

TITLE II. MEMBERSHIP SERVICE CREDIT.

Sec. 3. **General.** A Member of this Retirement System shall receive Membership Service Credit for all periods of employment with the Charlotte Fire Department for which contributions have been paid to, and not subsequently refunded by, the Charlotte Firefighters' Retirement System. In no case shall more than one year of Membership Service Credit be credited a Member for any 12 calendar month period of time.

Sec. 4. **Periods of Workers' Compensation & Accident and Sickness, Family Medical Leave Act, and Long-Term Disability Benefits.** Membership Service Credit shall be credited to a Member for any periods of

workers' compensation, accident and sickness, Family Medical Leave Act, or long-term disability benefits for which said Member contributes to the Charlotte Firefighters' Retirement System an amount equal to the Compensation the Member would have earned multiplied by the sum of the then current social security contribution rate ~~and~~ plus five percent (5%). Such contributions must be made within a 12 calendar month period from and after the date the Member returns to employment with the Charlotte Fire Department and prior to the Member's termination of membership or retirement.

Sec. 5. **Reinstatement of Membership Service Credit Previously Forfeited.** Membership Service Credit shall be credited for previous Membership Service for a Member who is reemployed by the Charlotte Fire Department within five years of the termination date of his previous employment, and provided the Member has not received reimbursement of his ~~Total Contributions~~ contributions pursuant to the provisions of this act. ~~Any Member who is reemployed by the Charlotte Fire Department before January 1, 1959, shall receive Membership Service Credit for all previous membership employment in said department. Any Member who was reemployed by the Charlotte Fire Department after December 31, 1958, and has previously received reimbursement of his Total Contributions pursuant to the provisions of this act, shall receive no Membership Service Credit for any previous membership employment with the Charlotte Fire Department.~~

Sec. 6. **Return from Active Military Duty.** Membership Service Credit shall be credited to any Member who entered the Armed Forces of the United States of America during World War I, World War II, the Korean War, any period of national emergency conditions, or entered the Armed Forces at any time through the operation of the compulsory military service law of the United States of America, upon the return to membership employment with the Charlotte Fire Department. Such Membership Service Credit shall include the period of active military service and any period after discharge or release from active duty from the Armed Forces for which his reemployment rights are guaranteed by law unless otherwise specified in this act.

Sec. 7. **Purchase of Membership Service Credit for Prior Active Military Duty.** ~~Membership Service Credit may be purchased for credit upon the completion of ten or more years of Membership Service Credit. Effective July 1, 1988, the purchase of such~~ Effective July 1, 1999, Membership Service Credit ~~must occur before~~ for prior active military duty may be purchased upon the completion of ~~13~~ five years of Membership Service ~~Credit, or by October 7, 1990, whichever is later, prior to termination of membership or retirement.~~ Credit by any Member who served on active duty in the Armed Forces of the United States of America prior to his employment with the Charlotte Fire Department. Such Membership Credit shall be purchased by the Member before termination of membership or retirement. The amount of Membership Service Credit ~~to be credited to~~ that may be purchased by a Member will be equal to the actual active military duty by the Member not to exceed five years and shall be credited upon the payment of the required contributions as determined by the Administrator, provided that the Membership Service to be so credited

shall not be credited in any other retirement system, except the national guard or any reserve component of the Armed Forces of the United States. The required contributions shall be an amount equal to the annualized Compensation rate the Member earned when he first entered membership in the Retirement System, multiplied by the sum of the Member and the City of Charlotte contribution rates in effect at the time when he first entered membership in the Retirement System, increased by five percent (5%) compounded per annum from the date of membership to the date of the payment of the required contributions and multiplied by the number of years and days of Membership Service to be credited.

Sec. 8. **Accumulated Sick Leave and Vacation at Retirement.** Membership Service Credit shall be credited to a Member for the balance of any unpaid sick leave and/or unpaid vacation at the time of his retirement, excluding any sick leave and/or vacation that was converted to a qualified deferred compensation program as defined by the City. Such Membership Service Credit shall be determined by the Administrator and shall be proportional based on the normal work schedule of the Member. Such Membership Service Credit cannot be used to meet the minimum qualifications for a disability retirement benefit, vested benefit or early retirement benefit, but may be used to meet the minimum qualifications for a service retirement benefit.

Sec. 9. **Determination by Board of Trustees.** In any case of doubt as to the period of Membership Service Credit to be so credited any Member, the Board of Trustees shall have final ~~power~~ authority to determine such period.

TITLE III. TERMINATION OF MEMBERSHIP.

Sec. 10. **Members With Less Than Five Years of Membership Service Credit.** (a) If a Member with less than five years of Membership Service Credit with this Retirement System shall cease employment with the Charlotte Fire Department, whether voluntary or involuntary, said former Member shall thereupon cease membership and shall be entitled to reimbursement of the ~~Total Contributions made by or on his behalf to the Retirement System, excluding~~ contributions made by the Member. The former Member shall not be entitled to any contributions made on the former Member's behalf by the City of Charlotte under the provisions of Section 25 of this act ~~without interest.~~ or to any interest which has accrued on his contributions or any contributions made on the Member's behalf. A former Member desiring reimbursement of said contributions must complete and file the form 'Application for Refund of Accumulated Contributions' with the Administrator within five years of the termination date of his employment. Should a former Member fail to complete and file said form with the Administrator within such five years, the former Member shall receive reimbursement of said ~~contributions.~~ contributions as provided in this act.

(b) If such a former Member dies within five years after terminating his employment prior to receiving reimbursement of contributions pursuant to subsection (a) of this section, his Designated Beneficiary(s) on file with the Retirement System or his personal representative in the absence of any

Designated Beneficiary, may apply for reimbursement of contributions pursuant to subsection (a) of this section and must file such application with the Administrator within five years of the date of death of the former Member or the funds will be paid to the Designated Beneficiary, if living, or otherwise to the former Member's estate.

Sec. 11. **Members With Five or More Years of Membership Service Credit.** (a) Effective July 1, ~~1986, if a Member with ten or more years of Membership Service Credit with this Retirement System shall cease employment with the Charlotte Fire Department, whether voluntary or involuntary, said Member shall receive his Accrued Benefit and defer such benefit until the Participant reaches age 60 years. Effective July 1,~~ 1989, if a Member with five or more years of Membership Service Credit with this Retirement System ceases employment with the Charlotte Fire Department, whether voluntarily or involuntarily, the Member shall receive his Accrued Benefit and defer this benefit until the Participant reaches 60 years of age. The Accrued Benefit shall be calculated pursuant to the provisions of Sections 15 and 17 of this act in effect on the last day of work by said Participant. If such Participant dies before applying for his deferred benefits and attaining age 60 years, reimbursement of the Participant's contributions may be accomplished in the same manner and in all respects as in Section 10 of this act.

(b) As an alternative to the provisions of subsection (a) of this section, if a Member with five or more years of Membership Service Credit with this Retirement System shall cease employment with the Charlotte Fire Department, whether voluntary or involuntary, said Member shall thereupon cease membership and may elect to receive reimbursement of his contributions in the same manner and in all respects as in Section 10 of this act.

Sec. 12. **Failure to Return From Active Military Duty.** Should any Member of this Retirement System who entered the Armed Forces of the United States of America pursuant to the provisions of Section 6 of this act fail to return to employment with the Charlotte Fire Department within the period for which his reemployment rights are guaranteed by law, said Member shall thereupon cease membership and shall be entitled to a deferred benefit or reimbursement of his contributions in the same manner and in all respects as provided for in Section 10 or 11 of this act, whichever is applicable.

Such former Member shall not receive Membership Service Credit for the period of active military duty or any period after discharge or release from active duty from the Armed Forces for which his reemployment rights had been guaranteed by law.

Sec. 13. Repealed by Section 7 of Chapter 248 of the 1989 Session Laws.

Sec. 13.1. **Direct Rollover of Eligible Rollover Distributions.** (a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to

have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions.

(1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(4) Direct rollover. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

Sec. 14. **Retirement of Member.** Upon his retirement pursuant to the provisions of this act, a Member shall thereupon cease membership in the Charlotte Firefighters' Retirement System.

TITLE IV. BENEFITS

Sec. 15. **Service Retirement.** A Member may upon written application through the Administrator to the Board of Trustees set forth an effective date of not less than 30 days nor more than 90 days subsequent to the execution and filing thereof that he desires to be retired, provided that he has attained the age and acquired the required Membership Service Credit and has been approved by the Board:

(1) The age and Membership Service Credit requirements for service retirement are as follows:

a. Any age and 30 or more years of Membership Service Credit;
b. Age 50 years or older and 25 or more, but less than 30 years of Membership Service Credit; or
c. Effective July 1, ~~1986, age 60 years or older and 10 or more, but fewer than 25 years of Membership Service Credit. Effective July 1,~~ 1989, age 60 years or older and 5 or more, but fewer than 25 years of Membership Service Credit.

(2) Upon a Member's service retirement, he shall be paid a benefit as provided in Section 17 of this act.

Sec. 16. Repealed by Section 9 of Chapter 248 of the 1989 Session Laws.

Sec. 17. (a) Effective July 1, ~~1986,~~ 1998, upon retirement pursuant to the provisions of ~~Sections 15 or 16, a Member shall receive a monthly benefit equal to two and four-tenths percent (2.4%) of his Final Average Salary multiplied by his Membership Service Credit, not to exceed one hundred percent (100%) of Final Average Salary, but not less than five hundred dollars ($500.00) per month. Effective July 1, 1989, upon retirement pursuant to the provisions of Section 15,~~ Section 15 of this act, a Member shall receive a monthly benefit equal to two and six-tenths percent (2.6%) of his Final Average Salary multiplied by his Membership Service Credit, not to exceed ~~one hundred percent (100%) of~~ the Final Average ~~Salary, but not less than five hundred dollars ($500.00). Effective July 1, 1995, upon retirement pursuant to the provisions of Section 15 of this act, a Member shall receive a monthly benefit equal to two and six-tenths percent (2.6%) of his Final Average Salary multiplied by his Membership Service Credit, not to exceed one hundred percent (100%) of his Final Average Salary, but not less than eight hundred thirty-three dollars and thirty-three cents ($833.33).~~ Salary limits imposed by section 415 of the Internal Revenue Code, as amended, but not less than nine hundred two dollars and seventy-five cents ($902.75). The benefit payable pursuant to this subsection shall be referred to as the basic benefit.

(b) Prior to his retirement, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his basic benefit from subsection (a) of this section in a reduced monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of option 1, 2, 3, 4, 5 or 6 as set forth below. Actuarial Equivalent for all Members retiring prior to July 1, 1987, shall be computed in accordance with the Group Annuity Table for 1951 with interest at four percent (4%). Actuarial Equivalent for all Members retiring after June 30, 1987, shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age with interest at six percent (6%). If a Member does not have an option election in force at the time of his retirement, his monthly benefit shall be paid as the basic benefit.

(c) Option 1. Benefit for 10 Years Certain and Life Thereafter. A Retiree shall receive a reduced basic benefit payable monthly throughout his life with the provision that if he dies before he has received 120 monthly

payments, the payments will continue for the remainder of the 120-month period to such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of Trustees.

(d) Option 2. 100% Joint and Survivor Benefit. A Retiree shall receive a reduced basic benefit payable monthly throughout his life and upon his death his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of ~~Trustees.~~ Trustees prior to retirement but not thereafter.

(e) Option 3. 75% Joint and Survivor Benefit. A Retiree shall receive a reduced basic benefit payable monthly throughout his life and upon his death seventy-five percent (75%) of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of ~~Trustees.~~ Trustees prior to retirement but not thereafter.

(f) Option 4. 66 2/3% Joint and Survivor Benefit. A Retiree shall receive a reduced basic benefit payable monthly throughout his life and upon his death sixty-six and two-thirds percent (66 2/3%) of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of ~~Trustees.~~ Trustees prior to retirement but not thereafter.

(g) Option 5. 50% Joint and Survivor Benefit. A Retiree shall receive a reduced basic benefit payable monthly throughout his life and upon his death fifty percent (50%) of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of ~~Trustees.~~ Trustees prior to retirement but not thereafter.

(h) Option 6. A Retiree may elect any of Options 2 through 5 with the added provision that in the event the Designated Beneficiary predeceases the Retiree, the monthly benefit payable to the Retiree after the Beneficiary's death shall be equal to the basic benefit. Such election will result in a benefit that is further reduced than the corresponding benefit payable under Options 2 through 5 if this Option 6 has not been elected. The intent of this additional reduction is to support the additional cost of this election.

(i) In the event that a Retiree who named his spouse as Beneficiary in accordance with the provisions of Options 1 through 6 and shall subsequently become divorced from the named Beneficiary, the Retiree may then elect a life annuity which shall be the Actuarial Equivalent of the value of all future benefit payments under the option then in effect upon written request to the Board of Trustees provided such request is not inconsistent with the terms of the divorce decree. It is the Retiree's responsibility to provide all pertinent documentation.

Sec. 18. **Early Retirement.** A Member may upon written application through the Administrator to the Board of Trustees set forth an effective date of not less than 30 days nor more than 90 days subsequent to the execution and filing thereof that he desires to be retired, provided that he has acquired 25 or more, but less than 30 years of Membership Service Credit and is less than age 50 years. Upon a Member's early retirement, he shall receive a

benefit as provided in Section 17, except such benefit shall be reduced by twenty-five one-hundredths of one percent (.25%) for each whole month the early retirement date precedes the Member's attainment of age 50 years.

Sec. 19. **Disability Retirement in the Line of Duty.**

(a) An 'Application for Disability Retirement in the Line of Duty' shall be filed by the Member or his department head with the Administrator, provided that the Member has applied for and been granted workers' compensation benefits on account of this disability.

(b) An 'Application for Disability Retirement in the Line of Duty' shall be administered pursuant to ~~rules and regulations~~ the Disability Regulations adopted by the Board of Trustees from time to time and approved by the City of Charlotte and administered in a uniform and nondiscriminatory manner. The Administrator shall request the Board of Trustees to conduct a hearing on the Application for Disability Retirement in the Line of Duty pursuant to the provisions of the Disability Regulations. The Member or any person filing on the Member's behalf or the Administrator may appeal from any order of the Board to the Superior Court of Mecklenburg County, within 10 days of the order. The appeal to the Superior Court shall be upon the record of the proceeding before the Board at the hearing.

(c) Effective July 1, ~~1986,~~ 1999, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to ~~seventy-two percent (72%) of his Final Average Salary, but not less than five hundred dollars ($500.00) per month. Effective July 1, 1987, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to~~ the greater of ~~seventy-two percent (72%) or two and four-tenths percent (2.4%)~~ seventy-eight percent (78%) or two and six-tenths percent (2.6%) multiplied by his Membership ~~Service, of his~~ Service Credit, not to exceed the Final Average ~~Salary, not to exceed one hundred percent (100%) of his Final Average Salary,~~ Salary limits imposed by section 415 of the Internal Revenue Code, as amended, but not less than ~~five hundred dollars ($500.00)~~ nine hundred two dollars and seventy-five cents ($902.75) per month. Effective July 1, 1988, prior to his retirement pursuant to the provisions of this Section, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring pursuant to this Section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits payable under this Section shall be effective on the date of approval by the Board of Trustees or upon exhaustion of workers' compensation benefits, whichever is later. Also, disability retirement benefits payable under this Section may be adjusted by the disability retirement regulations adopted pursuant to the requirements contained in subsection (b) of this Section. A Retiree receiving disability retirement benefits shall revert to a service retirement as specified in Section 15 and shall receive the greater of such disability retirement benefits or his Accrued Benefit as determined as of the last date of active employment with the

Charlotte Fire Department at such time as the Retiree's attained age and Membership Service Credit meet the requirements for a service retirement.

Sec. 20. **Disability Retirement not in the Line of Duty.**

(a) An 'Application for Disability Retirement not in the Line of Duty' shall be filed by a Member or his department head with the Administrator, provided that the Member has 10 or more years of Membership Service Credit and has applied for and been granted accident and sickness benefits on account of the disability.

(b) An 'Application for Disability Retirement not in the Line of Duty' shall be administered pursuant to rules and regulations adopted by the Board of Trustees from time to time and approved by the City of Charlotte and administered in a uniform and nondiscriminatory manner. The Administrator shall request the Board of Trustees to conduct a hearing on the Application for Disability Retirement not in the Line of Duty pursuant to the provisions of the Disability Regulations. The Member or any person filing on the Member's behalf or the Administrator may appeal from any order of the Board to the Superior Court of Mecklenburg County by giving notice of appeal, in writing, to the Superior Court, within 10 days of the order. The appeal to the Superior Court shall be upon the record of the proceeding before the Board at the hearing.

(c) Effective July 1, ~~1986,~~ 1999, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to ~~thirty-six percent (36%)~~ thirty-nine percent (39%) of his Final Average Salary, plus ~~one and eight-tenths percent (1.8%)~~ one and ninety-five hundredths percent (1.95%) of his Final Average Salary multiplied by the Membership Service Credit in excess of 10 years, not to exceed ~~one hundred percent (100%) of his Final Average Salary, but not less than five hundred dollars ($500.00)~~ the Final Average Salary limits imposed by section 415 of the Internal Revenue Code, as amended, but not less than nine hundred two dollars and seventy-five cents ($902.75) per month. Effective July 1, 1988, prior to his retirement pursuant to the provisions of this section, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring pursuant to this section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits payable under this section shall be effective on the date of approval by the Board of Trustees. Also, disability retirement benefits payable under this Section may be adjusted by the disability retirement regulations adopted pursuant to the requirements contained in subsection (b) of this Section. A Retiree receiving disability retirement benefits shall revert to a service retirement as specified in Section 15 and shall receive the greater of such disability retirement benefits or his Accrued Benefit as determined as of the last date of active employment with the Charlotte Fire Department at such time as the Retiree's attained age and Membership Service Credit meet the requirements for a service retirement.

Sec. 21. (a) In the event of the death of any Member of the System prior to his effective date of retirement pursuant to the provisions of Sections 15, 16, 18, 19, or 20 of this act, his Designated Beneficiary(s) on file with the Retirement System, or his personal representative in the absence of any Designated Beneficiary, shall be entitled to reimbursement of the Total Contributions by him or on his behalf and contributions by City of Charlotte to the ~~System;~~ System on his behalf; plus, two and five-tenths percent (2.5%) interest compounded annually on the contribution balance at the beginning of each Plan Year in which the Participant contributed or in which contributions were made on his behalf. However, the two and five-tenths percent (2.5%) interest shall not apply to death benefits occurring before July 1, 1986. Such Beneficiary(s) or personal representative must complete and file the form 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement. As an option, a Beneficiary may elect to receive an annuity equal to and in lieu of a lump sum distribution by so designating on the above form. Effective July 1, 1989, as an option, a surviving spouse of a deceased Member who was eligible for a service or early retirement benefit on the date preceding death may elect to receive an Actuarial Equivalent computed as of the date preceding death in the same manner as if the deceased member had retired and elected a reduced monthly amount payable throughout his life, and nominated the surviving spouse as his beneficiary in accordance with the provisions of Option 4, Sixty-Six and Two-Thirds Percent (66 2/3%) Joint and Survivor benefit, as set forth in subsection (f) of Section 17. The Actuarial Equivalent for all benefits payable pursuant to this section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%).

(b) In the event of the death of a Retiree of this System before he has received monthly benefit payments equal to the present value on the effective date of retirement of the Total Contributions by him or on his behalf and contributions by the City of Charlotte to the ~~System;~~ System on his behalf; plus, two and five-tenths percent (2.5%) interest compounded annually on the contribution balance at the beginning of each Plan Year in which the Participant contributed or in which contributions were made on his behalf and provided a monthly benefit is not payable in accordance with Section 17, the Designated Beneficiary(s) or estate of the retiree shall be entitled to an amount equal to the difference between such contributions, plus interest, and the sum of the monthly benefit payments received by the retiree. However, the two and five-tenths percent (2.5%) interest shall not apply to death benefits occurring before July 1, 1986. Such Beneficiary(s) or personal representative must complete and file the form 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement.

Sec. 22. **Coordination of Benefits.** The Board of Trustees shall reduce the amount of any benefits payable under the provisions of this section by any amount of benefits being concurrently paid to a Retiree by or on behalf of the City of Charlotte.

Sec. 23. **Post-Retirement Adjustments.**

(a) The retirement benefits payable to a Retiree pursuant to the provisions of this act may be adjusted at the discretion of the Board of Trustees based

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upon the prevailing economic and funding conditions. Such adjustment shall not be paid until such adjustment is ratified by the City of Charlotte.

(b) Effective July 1, 1989, the Board of Trustees shall make an annual bonus payment in the month of January following an annual actuarial valuation when the actuary determines that the actual payroll contributions exceed the required contributions adjusted for any actuarial gains and losses that may have occurred during the preceding year. The lesser of fifty percent (50%) of the excess amount determined by the actuary or the aggregate monthly benefit of the Retirees eligible for the bonus shall be distributed. A Retiree who has been retired for at least one year as of December 31, preceding distribution of the bonus, shall receive a bonus that is determined by the Administrator as proportional of the Retiree's monthly benefit to the aggregate monthly benefits of all Retirees eligible for the bonus.

(b1) Effective July 1, 1998, a Member who retired prior to July 1, 1989, shall receive an adjustment to the annual benefit equivalent to eight and thirty-three one hundredths percent (8.33%), which shall result in a monthly benefit of not less than nine hundred two dollars and seventy-five cents ($902.75) per month. Effective July 1, 1998, a Member who retired pursuant to a disability retirement after July 1, 1989, shall receive an adjustment to the annual benefit equivalent to eight and thirty-three one hundredths percent (8.33%) through July 1, 1999, which shall result in a monthly benefit of not less than nine hundred two dollars and seventy-five cents ($902.75) per month.

(c) Effective July 1, 1994, the provisions of this section shall apply to surviving beneficiaries and death benefit recipients receiving benefits from the Charlotte Firefighters' Retirement System.

TITLE V. METHOD OF FINANCING.

Sec. 24. **Member Contributions.** Each Member shall contribute to the Charlotte Firefighters' Retirement System and the City of Charlotte shall cause to be deducted from each and every payroll of such Member, an amount equal to the Member's Compensation multiplied by the sum of the then current social security contribution rate ~~and~~ plus five percent (5%).

Notwithstanding any provision of this act to the contrary, effective July 1, 1983, the City of Charlotte, as an employer, pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended from time to time, may elect to pick up and pay the contributions that would be payable by the Members of the Retirement System under this section with respect to the service of the Members after June 30, 1983.

The Members' contributions picked up by the City of Charlotte shall be designated for all purposes of the Retirement System as Member contributions, except for the determination of tax upon a distribution from the Retirement System. These contributions shall be credited to the fund created by this act accumulated within the fund in a Member's account that shall be separately established for the purpose of accounting for picked-up contributions. Member contributions picked up by the City of Charlotte shall be payable from the same source of funds used for the payment of

Compensation to a Member. A deduction shall be made from a Member's Compensation equal to the amount of his contributions picked up by the City of Charlotte. This deduction, however, shall not reduce his Compensation for purposes of the Retirement System. Picked-up contributions shall be transmitted to the Retirement System.

Sec. 25. **City of Charlotte Contributions.** (a) The City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System an amount equal to the Member's Compensation multiplied by the sum of the then current social security contribution rate ~~and~~ plus five percent (5%), for each and every payroll of such Member.

(b) Should any Member of this Retirement System enter the Armed Forces of the United States of America, the City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System for each and every payroll an amount equal to the Compensation such Member would have earned based upon the last pay grade with the Fire Department multiplied by the contribution rate established pursuant to subsection (a) of this section for a period not to exceed the lesser of the Member's actual period of active military duty or five years.

(c) Should any Member of the Retirement System enter the Armed Forces of the United States of America, upon approval by the City Council, the City of Charlotte by and on behalf of such Member may contribute an amount equal to, but not to exceed, the Compensation such Member would have earned based upon the last pay grade with the Fire Department multiplied by the contribution rate established pursuant to Section 24 of this act. Any contributions by and on behalf of such Member shall inure to the benefit of such Member as though made by such Member under the provisions of this act unless otherwise specified in this act.

(c1) Should any Member of the Retirement System contribute an amount pursuant to Section 4 for the purpose of receiving Membership Service Credit for any period of benefits under the federal Family Medical Leave Act, the City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System an amount equal to the Compensation that Member would have earned multiplied by the then current social security contribution rate ~~and~~ plus five percent (5%).

(d) In addition thereto, the City Council may, within its discretion and upon the recommendation of the Board of Trustees, appropriate funds necessary to provide a cost of living increase to the Retirees of the System.

Sec. 26. **Other.** Any other contributions by or on the behalf of any Member or the City of Charlotte pursuant to the provisions of this act, shall be received by the Charlotte Firefighters' Retirement System.

TITLE VI. ADMINISTRATION BY BOARD OF TRUSTEES.

Sec. 27. **General.** The Board of Trustees heretofore established is hereby continued. The general administration, management and responsibility for the proper operation of the Retirement System and for construing and making effective the provisions of this act are vested in the Board of Trustees.

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Sec. 28. **Body Politic and Corporate.** The Board of Trustees shall be a body politic and corporate under the name of the Board of Trustees of the Charlotte Firefighters' Retirement System and as a body politic and corporate shall have the right to sue and be sued, shall have perpetual succession and a common seal, and in said corporate name shall be able and capable in law to take, receive, demand and possess all kinds of property hereinafter specified, and to bargain, sell, grant, transfer or dispose of all such property as it may lawfully acquire. All such property owned or acquired by said body politic and corporate shall be exempt from all taxes imposed by the State or any political subdivision thereof, specifically, but not limited to, income, license, machinery, franchise and sales taxes. In addition, the Board of Trustees as a body politic and corporate may purchase and maintain such insurance policy or policies as may be necessary for the protection of the System, the System's assets, and trustees for acts performed by them as trustees, excluding malfeasance. All expenses for the purchase or maintenance of insurance shall be borne by the System.

Sec. 29. **Board of Trustees.** (a) The Board of Trustees shall consist of 11 Trustees, as follows: (i) City Manager, or some other City department head or employee as duly designated by the City Manager; (ii) City Finance Director, or a deputy finance director as duly designated by the City Finance Director; (iii) City Treasurer; (iv) a Chairman of the Board and three Trustees to represent the public and who are residents of Mecklenburg County and who are appointed by the Resident Judge of the Superior Court of Mecklenburg County and who shall hold office for a period of three years or until their successor shall have been appointed and been qualified; (v) three Members of the Retirement ~~System to~~ System, each of whom shall be elected by a vote of the Members of the Retirement System for a term of three years, pursuant to the Charlotte Firefighters' Retirement System Election Regulation; and (vi) one Retiree of the Retirement System to be elected by a majority vote of the retirees of the Retirement System for a term of three years, pursuant to the Charlotte Firefighters' Retirement System Election Regulation. The terms of office for elected Member Trustees and, effective July 1, 1989, for appointed Trustees, shall be graduated so that ~~only one Trustee's term~~ no more than three Trustees' terms shall expire each year. Any Member shall be eligible to succeed himself as a Trustee.

(b) Conflict of Interest. No trustee, chairman, or other officer or employee of the Charlotte Firefighters' Retirement System shall directly or indirectly become an independent contractor for work done by, or on behalf of, the System, or become directly or indirectly financially interested in, or receive profits from any purchase, contract, or association by or with the System.

Sec. 30. **Election of Member Trustees.** The elections of the Member Trustees as provided for in ~~Section 29(v)~~ Subsection 29(a) and the Retiree Trustee as provided for in ~~Section 29 (vi)~~ Subsection 29(a) shall be administered in accordance with rules and regulations adopted by the Board of Trustees from time to time.

Sec. 31. **Oath of Office.** An oath of office shall be administered to the Chairman of the Board and each Trustee prior to their assumption of duties with the Board of Trustees. The oath of office shall be administered by the

Mayor only after the Trustee having first qualified and within 10 days after having been appointed or elected. The Chairman of the Board and each Trustee shall swear to diligently and honestly administer the affairs of said Board and that he will not knowingly violate or willfully permit to be violated any of the provisions of the law applicable to the Retirement System. Such oath of office shall be subscribed to by the Member making it, and certified by the officer by whom it is taken, and immediately filed in the office of the City Clerk.

Sec. 32. **Vacancy on Board of Trustees.** A vacancy on the Board of Trustees shall be deemed to have occurred for any or all of the following reasons:

(a) In the event that an elected Trustee of the Board shall make application for benefits under this act he shall first submit a written notice to the Chairman of the Board disqualifying himself from his trusteeship.

(b) A vacancy shall be deemed to have occurred if a Trustee or the Chairman fails to attend any three consecutive meetings of the Board without prior notification unless excused for cause by the Trustees attending said meetings.

(c) A vacancy shall be deemed to have occurred if a Trustee or the Chairman should die.

(c1) A vacancy shall be deemed to have occurred if a Trustee or the Chairman should fail to satisfy the classification requirements in Subsection 29(a) of this act.

(d) If a Trustee shall deem himself incapable of fulfilling his Board obligations for any reason or if any condition exists that renders the Trustee disqualified, the Trustee shall submit a written notice to the Chairman disqualifying himself from his trusteeship. If the Chairman shall deem himself to be disqualified for any of the foregoing reasons, he shall submit written notice to the Resident Judge of the Superior Court of Mecklenburg County.

(e) If a vacancy shall occur pursuant to the provisions of subsections (a) through (d) of this section, the vacancy shall be filled within 90 days after the date of the vacancy, for the unexpired portion of the term, for the same classification and in the same manner as the position was previously filled.

Sec. 33. **Compensation of Trustees.** The members of the Board of Trustees of the Charlotte Firefighters' Retirement System shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses incurred through service upon said Board.

Sec. 34. **Officers of System.** (a) The Chairman of the Board, named pursuant to the provisions of ~~Section 29(iv)~~ Subsection 29(a) of this act, shall preside at all meetings that he is in attendance.

(b) At its first regular meeting each year, the Board shall elect from its membership: (1) A Vice Chairman, who shall preside at any meeting that the Chairman is absent; and (2) A Secretary of the Board, who shall be responsible for the recording and certifying of the record of proceedings.

(c) The City Treasurer shall be the Treasurer of the Retirement System and shall be custodian of its assets.

Sec. 35. **Meetings.** (a) The Board of Trustees shall conduct its business at meetings that conform with the 'Open Meetings Law,' Article

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33C of Chapter 143 of the General Statutes, G.S. 143-318.9 through ~~G.S. 143-318.18.~~ G.S. 143-318.18, as amended.

(a1) The Board of Trustees shall hold meetings regularly, at least one in each calendar quarter, and shall designate the time and place thereof. The first regular meeting in each Plan Year shall be held on the fourth Thursday of the month of July.

(b) The Chairman or, in the absence of the Chairman, the Vice Chairman may hold a special meeting and/or an emergency meeting at his discretion. Additionally, upon the written request of two members of the Board of Trustees, the Chairman shall call a special meeting of the Board.

When a special meeting is called, the Administrator shall insure that notice is given to each trustee either in person or by first class mail to the address of record on file with the Administrator. Such notice shall include the purpose of the meeting and designate the time, date and place thereof. The Chairman or Vice Chairman shall insure that the business of the special meeting be limited to the purpose as set forth in the notice.

When an emergency meeting is called, the Administrator shall attempt to notify each Trustee by telephone to the telephone number on file with the Administrator.

(c) Each Trustee shall be entitled to one vote on each motion presented to the Board of Trustees. The Chairman shall only vote in case of a tie or in such case as to create a ~~quorum of voting.~~ quorum. Six attending Trustees, including the Chairman, shall constitute a quorum at any meeting of the Board and at least six affirmative votes shall be necessary for a decision by the Trustees at any meeting of said Board. Prior to any discussion of a specific agenda item for which a Trustee or the Chairman deems himself to have a conflict of interest, or at such point during discussion that he determines himself to have a conflict of interest, the ~~member of the Board~~ Trustee or Chairman shall thereupon make such conflict known to the Board and the Board shall inquire into the nature of the conflict and make a determination whether a conflict of interest exists and if the ~~Board member should~~ Trustee or Chairman participate in the discussion and vote on the agenda item.

(d) The Board of Trustees through the Secretary shall cause to be kept a record of all of its proceedings which shall be open to public inspection.

Sec. 36. **Employment of Professional Services.** (a) The Board of Trustees shall have the authority to employ and/or utilize professional and secretarial services and to purchase and maintain such property, equipment and supplies as are deemed necessary for the proper operation of the System. All expenses, fees and/or retainers for the employment of services shall be borne by the System with the singular exception of the employment of the Actuary. All fees and expenses in connection with the employment of a qualified actuary to perform the annual evaluation of the Retirement System's financial condition shall be paid by the City of Charlotte.

(a1) **Actuary.** The Board of Trustees shall annually request the City to employ a qualified Actuary to perform such studies and evaluations of the Charlotte Firefighters' Retirement System as may be necessary and/or desirable by the Board or City in connection with the administration of the System. Within the meaning of this subsection, a qualified Actuary shall be

an Actuary who has been enrolled by the Joint Board for the Enrollment of Actuaries and shall be an associate, member, or fellow of the conference of Actuaries in Public Practice or a member of the American Academy of Actuaries.

(b) **Medical Board.** The Board of Trustees shall appoint a Medical Board to be composed of ~~three~~ one or more physicians to serve at the pleasure of the Board. The Medical Board shall arrange for and evaluate all medical examinations required under provisions of this act. The Medical Board shall also investigate and evaluate all medical evidence, statements, and certificates submitted by and on behalf of a Member in connection with an application for disability retirement. The Medical Board shall render its conclusions and recommendations in writing to the Board of Trustees in accordance with the provisions of this act.

(c) **Legal Counsel.** The City attorney and staff shall be the legal advisor to the Board of Trustees. The Board may employ separate legal counsel as it deems necessary and beneficial for the operation of the System.

(d) **Auditor.** The Board of Trustees shall appoint an Auditor who shall be a certified public accountant.

(e) **Administrator.** The Board of Trustees shall have the authority to appoint an Administrator who shall be responsible for the administration and coordination of all System operations and activities that are not otherwise specified in this act. Such administration shall be in accordance with rules and regulations of this act and the policy and direction of the Board. In the absence of an Administrator, the Secretary of the Board as specified in Section 34(b)(2) shall be responsible for the coordination of Board meetings and providing proper notice of such meetings.

(f) **Insurance.** The Board of Trustees may purchase and maintain that insurance coverage necessary for the proper operation of the System, including worker's compensation, fidelity insurance, and officers' and employees' liability coverage. All expenses incurred in purchasing or maintaining this coverage, including fees, and retainers, shall be borne by the System.

Sec. 37. **Committees.** The Chairman of the Board shall appoint an Investment Committee and a Benefits Committee and shall have the authority to appoint such other committees of the Board as deemed appropriate.

Sec. 38. **Authority of Board of Trustees to Recommend Changes to the Retirement System.** The Board of Trustees shall have the authority to recommend to the City changes to the Retirement System. All recommendations for changes must be actuarially sound and must take into account the interest of all Participants in the System.

Sec. 39. **Authority of City of Charlotte to Make Changes with Respect to the Retirement System.** Upon the recommendation of the Board of Trustees as provided in Section 38 of this act, the City may, within its discretion, increase or decrease the rate of contribution of the Members of the System and the City of Charlotte as may be necessary for the proper operation of the Retirement System. Provided, however, that no change shall reduce benefits being paid to Retirees of the System.

The City may deviate from the provisions of this act to the extent necessary to make any changes in the System required by the Internal

Revenue Service prior to its issuing a favorable determination letter under Section 401(a) and Section 501(a) of the Internal Revenue Code of 1986, as amended from time to time, and as required by the Internal Revenue Service to maintain the qualified status of the Retirement System.

Sec. 40. **Authority of City of Charlotte to Recommend Changes to the Retirement System.** ~~The~~ Subject to the approval of the Board of Trustees, the City may recommend to the General Assembly of the State of North Carolina changes to the Retirement System. All recommendations for changes must be actuarially sound and must take into account the interest of all Participants in the System.

Sec. 41. **Rules and Regulations.** Consistent with the provisions of this act, the Board of Trustees shall have the authority to adopt the rules and regulations for the administration of the Retirement System and for the transaction of its business.

TITLE VII. RECORD-KEEPING AND REPORTING REQUIREMENTS.

Sec. 42. **Record-Keeping.** The Administrator, or the Secretary of the Board in the absence of an administrator, shall maintain all data, files and records as is necessary to comply with the reporting requirements of this act.

Sec. 43. **Annual Audit.** There shall be an annual Audit of the books of the System. The Audit shall be performed by the Auditor as specified in Section 36(d).

Sec. 44. **Annual Actuarial Valuation.** There shall be an annual Actuarial Valuation as of the 1st of July. The Valuation shall be performed by the actuary as specified in Section 36(a1). Such Valuation shall be completed and presented to the Board no later than the second regular quarterly meeting each year.

Sec. 45. **Annual Report to City Council.** An annual report of the financial and actuarial condition of the System, as of the preceding June 30, shall be prepared and forwarded to the City Council in the quarter after receipt of the System's audit report from the Auditor. Such report shall contain but shall not be limited to the Auditor's opinion, such statements contained in the Auditor's report, a summary of the annual actuarial valuation and the actuary's valuation certification.

Sec. 46. **Annual Report to ~~Members.~~ Participants.** A copy of the report required by Section 45 shall be provided to each of the fire stations and Fire Department administrative offices of the City of Charlotte. In addition, a copy of the report or portions of the report shall be provided to the Participants of the System.

Sec. 47. **Other Reports.** The Administrator, or the Secretary of the Board in the absence of an administrator, shall be responsible for insuring that all reporting requirements with the Internal Revenue Service and the United States Government, including its various other agencies, departments, and offices, are complied with.

TITLE VIII. CUSTODY AND INVESTMENT OF SYSTEM ASSETS.

Sec. 48. **Trusteeship of Funds.** The Board of Trustees of the Charlotte Firefighters' Retirement System shall be the ~~Trustee~~ trustee of the funds and assets of the System and shall have the power to take by gift, grant, devise or bequest any money, real or personal property or other things of value, and hold, sell or invest the same.

Sec. 49. **Custody of System Assets.** The Treasurer of the Retirement System shall be the custodian and responsible for the safekeeping of all funds paid into the Charlotte Firefighters' Retirement System. The Treasurer shall deposit said funds in a bank or banks as designated by the Board of Trustees. The Treasurer may, with Board concurrence, use one or more nominees to facilitate transfer of the System's securities and may hold the securities in safekeeping with the Federal Reserve System, a clearing corporation, or a custodian bank which is a member of the Federal Reserve System. All payments from said funds shall be authorized by the treasurer only upon the signed, written request of the Administrator, or the Secretary of the Board in the absence of an administrator. The Treasurer shall furnish such bond as shall be required by the Board of Trustees and premium for said bond shall be paid out of the funds of the System.

Sec. 50. **Investment/Reinvestment of Funds and Assets.** The Board of Trustees shall be vested with the authority and responsibility and shall have full power to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities and investments in which the System shall have been invested, as well as the proceeds of said investments and any monies belonging to the System. The Board of Trustees as fiduciaries shall:

(1) Discharge its duties solely in the interest of the Participants and the Beneficiaries;

(2) Act with the same care, skill, prudence and diligence under the circumstances then prevailing, that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims;

(3) Act with due regard for the management, reputation and stability of the issuer and the character of the particular investments being considered;

(4) Make investments for the exclusive purpose of providing benefits to Participants and Participants' Beneficiaries;

(5) Give appropriate consideration to those facts and circumstances the Board of Trustees knows or should know are relevant to the particular investment or investment course of action involved, including the role the investment or investment course of action plays in that portion of the System's investments for which the Board of Trustees has responsibility, and shall act accordingly. Appropriate consideration shall include, but is not limited to, a determination by the Board of Trustees that a particular investment or investment course of action is reasonably designed as part of the investments of the System to further the purposes of the System taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment or investment course of action; and consideration of

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the following factors as they relate to the investment or the investment course of action:

a. The diversification of the investments of the System;
b. The liquidity and current return of the investments of the System relative to the anticipated cash flow requirements of the System; and
c. The projected return of the investments of the System relative to the funding objectives of the System;

(6) Give appropriate consideration to investments which would enhance the general welfare of the City and its citizens if those investments offer the safety and rate of return comparable to other investments held by the System and available to the Board of Trustees at the time the investment decision is made;

(7) May use a portion of income of the System to defray the cost of investing, managing and protecting the assets of the System; and

(8) May utilize the services of Investment Fiduciaries to manage the assets of the System. These Investment Fiduciaries shall be subject to the terms, conditions, and limitations provided in this section and any limitations as set forth by the Board of Trustees.

TITLE IX. RESTRICTIONS.

Sec. 51. **Restrictions.** Notwithstanding any provision of this act to the contrary:

(1) No part of the funds contributed to the Retirement ~~System pursuant to this act,~~ System, or the income thereon, may be used for, or diverted to, purposes other than for the exclusive benefit of the Participants of the Retirement ~~System.~~ System as authorized by the provisions of this act.

(2) Upon termination of the Retirement System or upon complete discontinuance of contributions to the Retirement System, the rights of all Participants of the Retirement System to benefits accrued to the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(3) Forfeitures under the Retirement System may not be applied to increase the benefits that any Participant would otherwise receive under the Retirement System.

(4) Notwithstanding any provision of the Retirement System to the contrary, the maximum annual benefit payable in the form of a straight life annuity from the Retirement System on behalf of a Participant, when combined with any benefits from another qualified benefit plan maintained by the City, shall not exceed the amount as provided in this section. If the normal form of payment is other than a straight life annuity or a qualified joint and survivor annuity, the amount so determined hereunder shall be adjusted on an actuarially equivalent basis to reflect such other payment form.

If a Participant has completed 10 or more years of service, the maximum annual benefit payable in accordance with this subdivision (4) shall be the lesser of a. ~~and~~ or b. below:

a. Ninety thousand dollars ($90,000) (or, beginning January 1, 1988), such larger dollar amount as the Commissioner of Internal Revenue may prescribe. Such amount shall be the maximum annual benefit pursuant to this subdivision a. for that calendar year and shall apply to the limitation year ending with or within that calendar year.
b. The average annual ~~Compensation~~ compensation the Participant received from the City during the three consecutive calendar years which would produce the highest such average.

If a Participant has completed less than 10 years of service, the maximum annual benefit payable in accordance with this subdivision (4) shall be the lesser of subdivisions a. ~~and~~ or b. above, multiplied by the ratio that the Participant's actual number of years of service bears to 10.

If the payment of a benefit to a Participant begins after he attains age 65, the maximum benefit shall be actuarially adjusted to that amount that, if paid in the same form and beginning at the same time as the benefit, would be the actuarial equivalent of the maximum benefit that was payable in the normal form of retirement allowance beginning on the first day of the month coincident with or next following the Participant's attainment of age 65.

If the payment of a benefit to a Participant begins before he attains age 62, the maximum benefit shall be actuarially adjusted to that amount which, if paid in the same form and beginning at the same time as his benefit, would be the actuarial equivalent of the maximum benefit payable in the normal form of retirement allowance beginning on the first day of the month coincident with or next following his attaining the age of 62. The reductions required by this paragraph shall in no event reduce the limitation in this subdivision a. below seventy-five thousand dollars ($75,000), if the benefit begins on or after the Participant's attainment of age 55 or the actuarial equivalent of the seventy-five thousand dollars ($75,000) benefit limitation for age 55, if the benefit begins prior to such age.

For purposes of this subdivision (4), if benefits begin before age 62, the maximum annual benefit payable shall be adjusted by an interest rate assumption not less than the greater of five percent (5%) or the rate specified in the Retirement System. For purposes of this subdivision (4), in addition to the above limitations, if a Participant is a Qualified Participant as defined in Title 1, Section 2 (17a) of this act, the actuarial reduction to the maximum benefit payable for benefits that begin prior to the attainment of age 55 shall not be reduced to an amount less than fifty thousand dollars ($50,000). If payment of a Participant's

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benefit begins after age 65, the maximum annual benefit payable shall be adjusted by an interest rate assumption not greater then the lesser of five percent (5%) or the rate specified in the Retirement System.

In the event a Participant is covered by one or more defined benefit plans maintained by the City, all such plans shall be aggregated in determining whether the maximum benefit limitations hereunder have been met. Further, the maximum retirement allowance as noted above may be decreased as determined necessary by the City to ensure that all plans will remain qualified under the Internal Revenue Code of 1986, as amended from time to time.

In addition to the other limitations set forth in the Retirement System and notwithstanding any other provisions of the Retirement System, the Accrued Benefit, including the right to any optional benefit provided in the Retirement System (and all other defined benefit plans required to be aggregated with the Retirement System under the provisions of Section 415 of the Internal Revenue Code of 1986, as amended from time to time), shall not increase to an amount in excess of the amount permitted under Section 415 of the Internal Revenue Code of 1986, as amended from time to time.

(5) Any benefit payable to a Participant pursuant to Section 4 of this act shall commence not later than the April 1 immediately following the calendar year in which the Participant attains age 70 1/2 or, if later, the April 1 immediately following the calendar year in which the Participant terminates service. Additionally, the distribution of any such benefit must satisfy the minimum distribution requirements set forth in this paragraph and must be consistent with Treasury Regulations, as of the required beginning date. The minimum distribution for a calendar year equals the Participant's nonforfeitable Accrued Benefit at the beginning of the year divided by the Participant's life expectancy or, if applicable, the joint and last survivor expectancy of the participant and his Designated Beneficiary. The minimum distribution shall be computed by using the life expectancy multiples under Treasury Regulation 1.72-9. The minimum distribution for a calendar year subsequent to the first calendar year for which a minimum distribution is required may be computed by redetermining the applicable life expectancy. However, there shall be no redetermination of the joint life and last survivor expectancy of the Participant and a nonspouse Designated Beneficiary in a manner which takes into account any adjustment to a life expectancy other then the Participant's life expectancy. A distribution to the Participant in the form of a life annuity, joint and survivor annuity, or an annuity over a fixed period will satisfy the minimum distribution requirements of this paragraph if the method of distribution provides non-increasing payments or otherwise satisfies Treasury Regulations.

If the Participant dies after the payment of his benefit has commenced, the death benefit provided by this act shall be paid over a period which does not exceed the payment period which had commenced. If a Participant dies prior to the time the payment of his benefit commences, the death benefit provided by this act shall be paid over a period not exceeding: (i) five years after the date of the Participant's death; or (ii) if the Beneficiary is a Designated Beneficiary, over the Designated Beneficiary's life or life expectancy. No payment of benefit over a period described in (ii) shall be permitted, unless the payment of such benefit to the Designated Beneficiary will commence no later than one year after the date of the Participant's death, or, if later, and the Designated Beneficiary is the Participant's surviving spouse, the date the Participant would have attained age 70 1/2. The life expectancy multiples under Treasury Regulation 1.72-9 shall be used for purposes of applying this paragraph. The life expectancy of a Participant's surviving spouse may be recalculated not more frequently than annually, but the life expectancy of a nonspouse Designated Beneficiary may not be recalculated after the commencement of payment of benefits to the Designated Beneficiary. Any amount paid to a Participant's child, which becomes payable to the Participant's surviving spouse upon the child's attaining the age of majority, shall be treated as paid to the Participant's surviving spouse for purposes of applying this paragraph.

TITLE X. MISCELLANEOUS.

Sec. 52. **Liabilities of Trustees.** No member of the Board of Trustees shall be personally liable by reason of his service as a Trustee for any acts performed by him as a Trustee, except for malfeasance in office. Except for costs or expenses incurred because of Trustee malfeasance, the System shall indemnify each Trustee for any and all costs or expenses incurred by that Trustee as a result of acts performed as a Trustee, including all insurance deductibles, copayments, and amounts exceeding insurance policy limits.

Sec. 53. **Assignments Prohibited.** The right of a Member to any benefits payable or reimbursement of any contributions, and any other right accrued or accruing to any person pursuant to the provisions of this act, and any monies belonging to the Retirement System shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable except as is specifically authorized by statute. If a Member is covered under a group insurance or prepayment plan participated in by the City, and should he be permitted to, and elect to, continue such coverage as a Retiree, he may authorize the Board of Trustees to have deducted from his monthly retirement benefits the payments required of him to continue coverage under such group insurance or prepayment plan.

Sec. 54. **Errors.** Should any change in the records result in any person receiving from the Retirement System more or less than he would have been

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entitled to receive had the records been correct, the Board of Trustees shall correct such error, and as far as practicable shall adjust the payment in such manner that the Actuarial Equivalent of the benefit to which the said person was correctly entitled shall be paid.

Sec. 55. **Protection Against Fraud.** Whoever with intent to deceive shall make any statements and/or reports required under this act which are untrue, or shall falsify or permit to be falsified any records of the Retirement System, or who shall otherwise violate, with intent to deceive, any of the provisions of this act, shall be prosecuted to the fullest extent of the law.

The Charlotte Firefighters' Retirement System shall have the right of setoff for any claim arising from embezzlement or by fraud of a Participant.

Sec. 56. Repealed by Section 17 of Chapter 248 of the 1989 Session Laws.

Sec. 57. **Laws Inconsistent Repealed.** All laws and clauses of law pertaining to the Charlotte Firefighters' Retirement System that are in conflict with the provisions of this act are hereby revoked.

Sec. 58. **Savings Provisions.** If any section or part of this act is for any reason held to be invalid or unconstitutional, such holding shall not be construed as affecting the validity of the remaining sections of this act or the act in its entirety; it being the legislative intent that this act shall stand notwithstanding the invalidity of any section or part of a section.

Sec. 59. This act shall apply to the City of Charlotte only."

Section 2. None of the provisions of this act shall create an additional liability for the Charlotte Firefighters' Retirement System unless sufficient assets are available to pay for the liability.

Section 3. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law on the date it was ratified.

S.B. 653 **SESSION LAW 1999-101**

AN ACT RELATING TO INVESTMENT OF HEALTH TRUST FUND MONIES BY THE COUNTY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. The County of Durham, or any governing body, agency, person, or other corporation that contracts with Durham County for the investment, care, or administration of monies held by the County in its Community Health Trust Fund, may invest and reinvest monies constituting the Fund in one or more of the types of securities or other investments, and subject to the same restrictions, as authorized by State law for the State Treasurer in G.S. 147-69.2.

Section 2. This act shall apply only to monies constituting the Community Health Trust Fund. Limitations on investment and reinvestment of Fund assets may be enacted by the Durham County Board of Commissioners.

Section 3. This act, insofar as it authorizes certain investments, amends G.S. 159-30 with regard to the investment of the Durham County Community Health Trust Fund only.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law on the date it was ratified.

S.B. 705 **SESSION LAW 1999-102**

AN ACT TO ASSIST THE JOHNSTON COUNTY BOARD OF EDUCATION WITH THE EXPEDITING OF PUBLIC SCHOOL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Johnston County Board of Education may select and negotiate with separate-prime contractors to build the Unitary System Approach (USA) model school plan if the Johnston County Board of Education determines that using the selection and negotiations processes instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Section 2. This act shall apply to the construction of only two of the following schools: Riverwood Elementary School in the Clayton area, Riverwood Middle School in the Clayton area, West Johnston Elementary School, North East Elementary School, Four Oaks Middle School, and Smithfield Elementary School. The Johnston County Board of Education shall report to the General Assembly the net price per square foot for each project at the completion of each project.

Section 3. This act is effective when it becomes law and shall expire on June 30, 2003.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law on the date it was ratified.

S.B. 712 **SESSION LAW 1999-103**

AN ACT TO AUTHORIZE THE TOWN OF CORNELIUS TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation is located entirely within the same county

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as the annexing municipality and in an area that another city in that county has: (i) agreed not to annex, or (ii) has given the annexing city the right of annexation under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements, then this subdivision shall not apply.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation under this Part is either: (i) in an area that another city has agreed not to annex under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements and the territory to be annexed is within the same county as the annexing city is located, or (ii) the closer city is located entirely within another county than the area being annexed, then the proximity to that other city shall not be considered in applying this subdivision.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision which is located within the same county as the annexing municipality must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city."

Section 2. This act applies to the Town of Cornelius only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law on the date it was ratified.

H.B. 708 **SESSION LAW 1999-104**

AN ACT TO AUTHORIZE THE SANFORD-LEE REGIONAL AIRPORT AUTHORITY AND THE BRUNSWICK COUNTY AIRPORT COMMISSION TO RECEIVE SALES TAX REFUNDS.

The General Assembly of North Carolina enacts:

Section 1. Section 3(a) of Chapter 903 of the 1991 Session Laws is amended by adding a new subdivision to read:

"Sec. 3. (a) The authority shall, in addition to the powers conferred in Chapter 63 of the General Statutes of North Carolina, have the following powers:

(11) To receive refunds of sales and use taxes under G.S. 105-164.14(c)."

Section 2. Section 2 of Chapter 411 of the 1961 Session Laws is amended by adding a new subdivision to read:

"**Sec. 2.** Said Airport Commission shall, in addition to the powers conferred in Chapter 63 of the General Statutes of North Carolina, have the following powers:

. . .

(5) To receive refunds of sales and use taxes under G.S. 105-164.14(c)."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law on the date it was ratified.

S.B. 637 **SESSION LAW 1999-105**

AN ACT TO EXPAND THE LAW OF ASSAULT TO PROTECT SCHOOL PERSONNEL AND SCHOOL VOLUNTEERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-33 reads as rewritten:

"*§ 14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.*

(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class 2 misdemeanor.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class 1 misdemeanor if, in the course of the assault, assault and battery, or affray, he:

(1) through (3) Repealed by Session Laws 1995, c. 507, s. 19.5(b);

(4) through (7) Repealed by Session Laws 1991, c. 525, s. 1;

(8) Repealed by Session Laws 1995, c. 507, s. 19.5(b);

(9) Commits an assault and battery against a sports official when the sports official is discharging or attempting to discharge official duties at a sports event, or immediately after the sports event at which the sports official discharged official duties. A "sports official" is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A "sports event" includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the State.

(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

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(1) Inflicts serious injury upon another person or uses a deadly weapon;
(2) Assaults a female, he being a male person at least 18 years of age;
(3) Assaults a child under the age of 12 years;
(4) Assaults an officer or employee of the State or any political subdivision of the State, when the officer or employee is discharging or attempting to discharge his official duties; or
~~(5) Assaults a school bus driver, school bus monitor, or school employee who is boarding the school bus or who is on the school bus.~~
(6) Assaults a school employee or school volunteer when the employee or volunteer is discharging or attempting to discharge his or her duties as an employee or volunteer, or assaults a school employee or school volunteer as a result of the discharge or attempt to discharge that individual's duties as a school employee or school volunteer. For purposes of this subdivision, the following definitions shall apply:
a. "Duties" means:
1. All activities on school property;
2. All activities, wherever occurring, during a school authorized event or the accompanying of students to or from that event; and
3. All activities relating to the operation of school transportation.
b. "Employee" or "volunteer" means:
1. An employee of a local board of education; or a charter school authorized under G.S. 115C-238.29D, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes;
2. An independent contractor or an employee of an independent contractor of a local board of education, charter school authorized under G.S. 115C-238.29D, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, if the independent contractor carries out duties customarily performed by employees of the school; and
3. An adult who volunteers his or her services or presence at any school activity and is under the supervision of an individual listed in sub-sub-subdivision 1. or 2. of this sub-subdivision."

Section 2. This act becomes effective December 1, 1999, and applies to offenses on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law upon approval of the Governor at 2:00 p.m. on the 27th day of May, 1999.

S.B. 693 **SESSION LAW 1999-106**

AN ACT TO PROVIDE, UPON THE MOTION OF A DEFENDANT MADE AFTER ISSUANCE OF SUMMONS, THAT A PLAINTIFF IS NOT ALWAYS REQUIRED TO POST A PROSECUTION BOND, PROVIDE SECURITY, OR SHOW THE PLAINTIFF IS SUING AS AN INDIGENT BUT TO PROVIDE THAT THE PLAINTIFF MAY BE SO REQUIRED BY THE CLERK OR JUDGE UPON A SHOWING OF GOOD CAUSE BY THE DEFENDANT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-109 reads as rewritten:

"*§ 1-109. Bond required of plaintiff for costs.*

At any time after the issuance of summons, the clerk or judge, upon motion of the defendant, ~~shall~~ may, upon a showing of good cause, require the plaintiff to do one of the following things and the failure to comply with such order within 30 days from the date thereof shall constitute grounds for dismissal of such civil action or special proceeding:

(1) Give an undertaking with sufficient surety in the sum of two hundred dollars, with the condition that it will be void if the plaintiff pays the defendant all costs which the latter recovers of him in the action.

(2) Deposit two hundred dollars ($200.00) with him as security to the defendant for these costs, in which event the clerk must give to the plaintiff and defendant all costs which the latter recovers of him in the action.

(3) File a copy of an order from a superior or district court judge or clerk of a superior court authorizing the plaintiff to sue as an indigent.

The requirements of this section shall not apply to the State of North Carolina or any of its agencies, commissions or institutions, or to counties, drainage districts, cities and towns; provided, further, that the State of North Carolina or any of its agencies, commissions or institutions, and counties, drainage districts, cities and towns may institute civil actions and special proceedings without being required to give a prosecution bond or make deposit in lieu of bond."

Section 2. This act becomes effective October 1, 1999, and applies to all causes of action commenced on or after that date.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law upon approval of the Governor at 2:02 p.m. on the 27th day of May, 1999.

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S.B. 769 **SESSION LAW 1999-107**

AN ACT TO MODIFY THE ESSENTIAL ELEMENTS OF THE FELONY OFFENSE OF LARCENY OF GINSENG.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-79 reads as rewritten:

"§ *14-79. Larceny of ginseng.*

If any person shall take and carry away, or shall aid in taking or carrying away, any ginseng growing upon the lands of another person, with intent to steal the same, he shall be punished as a Class H ~~felon: Provided, that such ginseng, at the time the same is taken, shall be in beds and the land upon which such beds are located shall be surrounded by a lawful fence.~~ felon."

Section 2. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law upon approval of the Governor at 2:05 p.m. on the 27th day of May, 1999.

H.B. 1167 **SESSION LAW 1999-108**

AN ACT TO SIMPLIFY THE LATERAL ENTRY PROGRAM FOR TEACHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-296.1 reads as rewritten:

"§ *115C-296.1. (Expires September 1, 2002) Teacher shortages; certification.*

(a) Notwithstanding any other law, if a local board determines there is or anticipates there will be a shortage of qualified teachers with North Carolina certificates available to teach specified subjects or grade levels, then the local board may employ as teachers individuals who do not meet the State Board's requirements for initial or continuing State certification. The local board may employ an individual under this subsection for up to one year under a provisional certificate so long as:

(1) Each individual has a postsecondary degree that is at least a bachelors degree.

(2) Each individual has:

a. An out-of-State certificate authorizing the individual to teach the grade or subject to be taught and at least one year of classroom teaching experience the board considers relevant to the grade or subject to be taught;

b. At least one year of full-time classroom teaching experience as a professor, assistant professor, associate professor, instructor, or visiting lecturer at a constituent institution of The University of North Carolina, a North Carolina community college, or other institution of higher education as defined in G.S. 90-

270.2(5) provided the board considers the experience relevant to the grade or subject to be taught; or

c. Three years of other experience provided the board determines that both the individual's experience and postsecondary education are relevant to the grade or subject to be taught.

(3) Each individual is eligible for re-employment by his or her prior employer.

(4) The board has developed a plan to determine the individual's competence as a teacher. The board's plan shall include a review of the performance of students taught by the individual.

(5) During the period of employment under this subsection, the board provides a mentor teacher if the individual does not have a year of classroom teaching experience.

(6) During the period of employment under this subsection, the individual receives an annual evaluation and multiple observations under G.S. 115C-333(a).

(b) A local board may re-employ as a teacher an individual the board initially employed under subdivision (a)(2)a of this section. This individual is then deemed to have satisfied the academic and professional preparation required to receive an initial or continuing State teacher certificate and is not required to take and pass a standard examination to demonstrate that preparation. An individual who receives an initial or continuing State certificate under this subsection is subject to the same requirements for continuing certification and certificate renewal as other teachers who hold initial or continuing State teacher certificates.

(c) A local board may re-employ as a teacher an individual the board initially employed under subdivisions (a)(2)b and (a)(2)c of this section. If the individual, either prior to initial employment or within one year ~~of the~~ after initial employment, takes and passes the standard examination adopted by the State Board under G.S. 115C-296(a) that is or was applicable to the grade or subject the individual is employed to teach, then upon re-employment the individual is deemed to have satisfied the academic and professional preparation required to receive an initial State teacher certificate. An individual who receives an initial certificate under this subsection is subject to the same requirements for continuing certification as other teachers who hold initial State teacher certificates. If the individual, within one year of the initial employment, does not take and pass the standard examination adopted by the State Board under G.S. 115C.296(a) that is applicable to the grade or subject the individual is employed to teach, then upon re-employment the individual shall continue to hold a provisional certificate and is subject to G.S. 115C-296(c).

(d) Local boards shall report semi-annually to the State Board the number of individuals employed as teachers under each sub-subdivision of subdivision (2) of subsection (a) of this section."

Section 2. This act becomes effective July 1, 1999, and applies to all persons hired under G.S. 115C-296.1.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

Became law upon approval of the Governor at 2:07 p.m. on the 27th day of May, 1999.

S.B. 601 **SESSION LAW 1999-109**

AN ACT TO PROVIDE THAT THE SECRETARY OF CORRECTION HAS SOLE AUTHORITY TO DESIGNATE THE UNIFORMS WORN BY INMATES CONFINED IN THE DIVISION OF PRISONS.

The General Assembly of North Carolina enacts:

Section 1. Section 17.20 of S.L. 1998-212 is repealed.

Section 2. The Secretary of Correction has sole authority to designate the uniforms worn by inmates confined in the Division of Prisons.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law upon approval of the Governor at 2:09 p.m. on the 27th day of May, 1999.

S.B. 614 **SESSION LAW 1999-110**

AN ACT TO MAKE CHANGES TO THE IMMUNIZATION LAWS PERTAINING TO ADMINISTRATION AND REPORTING OF IMMUNIZATIONS, CERTIFICATES OF IMMUNIZATIONS RECEIVED IN OTHER STATES, SUBMISSION OF IMMUNIZATION CERTIFICATES TO CHILD CARE FACILITIES AND SCHOOL AUTHORITIES, AND TO MAKE OTHER TECHNICAL CHANGES TO THE IMMUNIZATION STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-41(b) reads as rewritten:

"(b) A local health director shall have the following powers and duties:

(1) To administer programs as directed by the local board of health;

(2) To enforce the rules of the local board of health;

(3) To investigate the causes of infectious, communicable and other diseases;

(4) To exercise quarantine authority and isolation authority pursuant to G.S. 130A-145;

(5) To disseminate public health information and to promote the benefits of good health;

(6) To advise local officials concerning public health matters;

(7) To enforce the immunization requirements of Part 2 of Article ~~7~~ 6 of this Chapter;

(8) To examine and investigate cases of venereal disease pursuant to Parts 3 and 4 of Article 6 of this Chapter;

(9) To examine and investigate cases of tuberculosis pursuant to Part 5 of Article 6 of this Chapter;

(10) To examine, investigate and control rabies pursuant to Part 6 of Article 6 of this Chapter;

(11) To abate public health nuisances and imminent hazards pursuant to G.S. 130A-19 and G.S. 130A-20;

(12) To employ and dismiss employees of the local health department in accordance with Chapter 126 of the General Statutes;

(13) To enter contracts, in accordance with The Local Government Finance Act, G.S. Chapter 159, on behalf of the local health department. Nothing in this paragraph shall be construed to abrogate the authority of the board of county commissioners."

Section 2. G.S. 130A-153 reads as rewritten:

"§ *130A-153. Obtaining immunization; reporting by local health departments; access to immunization information in patient records; immunization of minors.*

(a) The required immunization may be obtained from a physician licensed to practice medicine or from a local health department. Local health departments shall administer ~~the~~ required and State-supplied immunizations at no cost to the patient. The Department shall provide the vaccines for use by the local health departments. A local health department may redistribute these vaccines only in accordance with the rules of the Commission.

(b) Local health departments shall file monthly immunization reports with the Department. The report shall be filed on forms prepared by the Department and shall ~~state~~ state, at a minimum, each patient's age and the number of doses of each type of vaccine administered.

(c) Immunization certificates and information concerning immunizations contained in medical or other records shall, upon request, be shared with the Department, local health departments, and the patient's attending physician. In addition, an insurance institution, agent, or insurance support organization, as those terms are defined in G.S. 58-39-15, may share immunization information with the Department. The Commission may, for the purpose of assisting the Department in enforcing this Part, provide by rule that other persons may have access to immunization information, in whole or in part.

(d) A physician or local health department may immunize a minor with the consent of a parent, guardian, or person standing in loco parentis to the minor. A physician or local health department may also immunize a minor who is presented for immunization by an adult who signs a statement that he or she is authorized by a parent, guardian, or person standing in loco parentis to the minor to obtain the immunization for the minor."

Section 3. G.S. 130A-154 reads as rewritten:

"§ *130A-154. Certificate of immunization.*

(a) A physician or local health department administering a required vaccine shall give a certificate of immunization to the person who presented the child for immunization. The certificate shall state the name of the child, the name of the child's parent, guardian, or person responsible for the child obtaining the required immunization, the address of the child and the parent, guardian or responsible person, the date of birth of the child, the sex of the child, the number of doses of the vaccine given, the date the doses were given, the name and address of the physician or local health department administering the required immunization and other relevant information required by the Commission.

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(b) Except as otherwise provided in this subsection, a person who received immunizations in a state other than North Carolina shall present an official certificate or record of immunization to the child care facility, school (K-12), or college or university. This certificate or record shall state the person's name, address, date of birth, and sex; the type and number of doses of administered vaccine; the dates of the first MMR and the last DTP and polio; the name and address of the physician or local health department administering the required immunization; and other relevant information required by the Commission."

Section 4. G.S. 130A-155 reads as rewritten:

"§ *130A-155. Submission of certificate to child care ~~facility~~ facility, preschool and school authorities; record maintenance; reporting.*

(a) No child shall attend a school ~~(K-12),~~ (pre K-12), whether public, private or religious, a child care facility as defined in G.S. 110-86(3), unless a certificate of immunization indicating that the child has received the immunizations required by G.S. 130A-152 is presented to the school or facility. The parent, guardian, or responsible person must present a certificate of immunization on the child's first day of attendance to the principal of the school or operator of the facility, as defined in G.S. 110-86(7). If a certificate of immunization is not presented on the first day, the principal or operator shall present a notice of deficiency to the parent, guardian or responsible person. The parent, guardian or responsible person shall have 30 calendar days from the first day of attendance to obtain the required immunization for the child. If the administration of vaccine in a series of doses given at medically approved intervals requires a period in excess of 30 calendar days, additional days upon certification by a physician may be allowed to obtain the required immunization. Upon termination of 30 calendar days or the extended period, the principal or operator shall not permit the child to attend the school or facility unless the required immunization has been obtained.

(b) The school or child care facility shall maintain on file immunization records for all children attending the school or facility which contain the information required for a certificate of immunization as specified in G.S. 130A-154. These certificates shall be open to inspection by the Department and the local health department during normal business hours. When a child transfers to another school or facility, the school or facility which the child previously attended shall, upon request, send a copy of the child's immunization record at no charge to the school or facility to which the child has transferred.

(c) Within 60 calendar days after the commencement of a new school year, the school shall file an immunization report with the Department. The child care facility shall file an immunization report annually with the Department. The report shall be filed on forms prepared by the Department and shall state the number of children attending the school or facility, the number of children who had not obtained the required immunization within 30 days of their first attendance, the number of children who received a medical exemption and the number of children who received a religious exemption.

(d) Any adult who attends school ~~(K-12),~~ (pre K-12), whether public, private or religious, shall obtain the immunizations required in G.S. 130A-152 and shall present to the school a certificate in accordance with this section. The physician or local health department administering a required vaccine to the adult shall give a certificate of immunization to the person. The certificate shall state the person's name, address, date of birth and sex; the number of doses of the vaccine given; the date the doses were given; the name and addresses of the physician or local health department administering the required immunization; and other relevant information required by the Commission."

Section 5. G.S. 130A-155.1(d) is repealed.

Section 6. G.S. 130A-156 reads as rewritten:

"*§ 130A-156. Medical exemption.*

The Commission for Health Services shall adopt by rule ~~a list of~~ medical contraindications to immunizations required by G.S. 130A-152. If a physician licensed to practice medicine in this State certifies that a required immunization is or may be detrimental to a person's health due to the presence of one of the contraindications ~~listed~~ adopted by the Commission, the person is not required to receive the specified immunization as long as the contraindication persists. The State Health Director may, upon request by a physician licensed to practice medicine in this State, grant a medical exemption to a required immunization for a contraindication not on the list adopted by the Commission."

Section 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law upon approval of the Governor at 3:00 p.m. on the 28th day of May, 1999.

S.B. 658 **SESSION LAW 1999-111**

AN ACT TO EXTEND THE SUNSET ON THE LAW PROVIDING THAT CERTAIN SECONDARY SUPPLIERS OF ELECTRIC SERVICE MAY FURNISH SERVICE WITHIN THE CORPORATE LIMITS OF A CITY WITH WRITTEN CONSENT FROM THE CITY, ALLOWING THE BOARD OF AN ELECTRIC OR TELEPHONE MEMBERSHIP CORPORATION TO VOTE BY PROXY ON DECISIONS TO ENCUMBER CORPORATE PROPERTY OR TO DISSOLVE AN ELECTRIC MEMBERSHIP CORPORATION, AND MAKING TECHNICAL CHANGES TO THE LAW REGARDING MUNICIPAL ELECTRIC SERVICE.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of S.L. 1997-346 reads as rewritten:

"Section 6. This act is effective when it becomes law and applies only to annexations or incorporations that occur on or after the effective date. ~~This act expires on the date of the adjournment sine die of the 1999 General Assembly.~~ This act expires on December 31, 2003."

Section 2. This act is effective when it becomes law.

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In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law upon approval of the Governor at 3:02 p.m. on the 28th day of May, 1999.

S.B. 1008 **SESSION LAW 1999-112**

AN ACT TO EXTEND THE TIME FOR THE NORTH CAROLINA UTILITIES COMMISSION TO ADOPT FINAL RULES REGARDING UNIVERSAL SERVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-110(f1) reads as rewritten:

"(f1) Except as provided in subsection (f2) of this section, the Commission is authorized, following notice and an opportunity for interested parties to be heard, to issue a certificate to any person applying to provide local exchange or exchange access services as a public utility as defined in G.S. 62-3(23)a.6., without regard to whether local telephone service is already being provided in the territory for which the certificate is sought, provided that the person seeking to provide the service makes a satisfactory showing to the Commission that (i) the person is fit, capable, and financially able to render such service; (ii) the service to be provided will reasonably meet the service standards that the Commission may adopt; (iii) the provision of the service will not adversely impact the availability of reasonably affordable local exchange service; (iv) the person, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and (v) the provision of the service does not otherwise adversely impact the public interest. In its application for certification, the person seeking to provide the service shall set forth with particularity the proposed geographic territory to be served and the types of local exchange and exchange access services to be provided. Except as provided in G.S. 62-133.5(f), any person receiving a certificate under this section shall, until otherwise determined by the Commission, file and maintain with the Commission a complete list of the local exchange and exchange access services to be provided and the prices charged for those services, and shall be subject to such reporting requirements as the Commission may require.

Any certificate issued by the Commission pursuant to this subsection shall not permit the provision of local exchange or exchange access service until July 1, 1996, unless the Commission shall have approved a price regulation plan pursuant to G.S. 62-133.5(a) for a local exchange company with an effective date prior to July 1, 1996. In the event a price regulation plan becomes effective prior to July 1, 1996, the Commission is authorized to permit the provision of local exchange or exchange access service by a competing local provider in the franchised area of such local exchange company.

The Commission is authorized to adopt rules it finds necessary (i) to provide for the reasonable interconnection of facilities between all providers of telecommunications services; (ii) to determine when necessary the rates

for such interconnection; (iii) to provide for the reasonable unbundling of essential facilities where technically and economically feasible; (iv) to provide for the transfer of telephone numbers between providers in a manner that is technically and economically reasonable; (v) to provide for the continued development and encouragement of universally available telephone service at reasonably affordable rates; and (vi) to carry out the provisions of this subsection in a manner consistent with the public interest, which will include a consideration of whether and to what extent resale should be permitted.

Local exchange companies and competing local providers shall negotiate the rates for local interconnection. In the event that the parties are unable to agree within 90 days of a bona fide request for interconnection on appropriate rates for interconnection, either party may petition the Commission for determination of the appropriate rates for interconnection. The Commission shall determine the appropriate rates for interconnection within 180 days from the filing of the petition.

Each local exchange company shall be the universal service provider in the area in which it is certificated to operate on July 1, 1995, until otherwise determined by the Commission. In continuing this State's commitment to universal service, the Commission shall, by December 31, 1996, adopt interim rules that designate the person that should be the universal service provider and to determine whether universal service should be funded through interconnection rates or through some other funding mechanism. By ~~July 1, 1999,~~ July 1, 2001, the Commission shall complete an investigation and adopt final rules concerning the provision of universal services, the person that should be the universal service provider, and whether universal service should be funded through interconnection rates or through some other funding mechanism.

The Commission shall make the determination required pursuant to this subsection in a manner that furthers this State's policy favoring universally available telephone service at reasonable rates."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of May, 1999.

Became law upon approval of the Governor at 3:05 p.m. on the 28th day of May, 1999.

S.B. 198 **SESSION LAW 1999-113**

AN ACT PERTAINING TO THE ISSUANCE OF A NEW ADULT CARE HOME LICENSE TO AN APPLICANT WHO WAS THE LICENSEE OR ADMINISTRATOR OF AN ADULT CARE HOME THE LICENSE OF WHICH HAD BEEN REVOKED OR DOWNGRADED TO PROVISIONAL STATUS OR AGAINST WHICH A TYPE A PENALTY HAD BEEN ASSESSED, AND TO ALLOW NURSING HOME RESIDENTS OR THEIR REPRESENTATIVES ACCESS TO INFORMATION ABOUT COMPLAINT INVESTIGATIONS.

The General Assembly of North Carolina enacts:

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Section 1. G.S. 131D-2(b)(1) reads as rewritten:

"(b) Licensure; inspections. --

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Social Services Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary of Health and Human Services for failure to comply with any part of this section or any rules adopted hereunder. ~~No new license shall be issued for any domiciliary home whose administrator was the administrator for any domiciliary home [adult care home] that had its license revoked until one full year after the date of revocation.~~ Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fines and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. The Department may amend a license by reducing it from a full license to a provisional license whenever the Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;

b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and

c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may revoke a license whenever:

a. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or

b. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in

compliance with licensure rules for the foreseeable future; or

c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Social Services Commission, for substantial failure to comply with the provisions of this section or rules promulgated pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

Section 2. G.S. 131D-2(b) is amended by adding the following subdivision to read:

"(1b) No new license shall be issued for any adult care home to an applicant for licensure who:

a. Was the owner, principal, or affiliate of an adult care home that had its license revoked until one full year after the date of revocation;

b. Is the owner, principal, or affiliate of an adult care home that was assessed a penalty for a Type A or Type B violation until the earlier of one year from the date the penalty was assessed or until the home has substantially complied with the correction plan established pursuant to G.S. 131D-34 and substantial compliance has been certified by the Department; or

c. Is the owner, principal, or affiliate of an adult care home that had its license summarily suspended or downgraded to provisional status as a result of Type A or B violations until six months from the date of reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable.

An applicant for new licensure may appeal a denial of certification of substantial compliance under subparagraph b. of this subdivision by filing with the Department a request for review by the Secretary within 10 days of the date of denial of the certification. Within 10 days of receipt of the request for review the Secretary shall issue to the applicant a written determination that either denies certification of substantial compliance or certifies substantial compliance. The decision of the Secretary is final."

Section 3. G.S. 131E-124(c) reads as rewritten:

"(c) The Department shall maintain the confidentiality of all persons who register complaints with the Department and of all medical records inspected by the Department. A person who has filed a complaint shall have access to information about a complaint investigation involving a specific resident if written authorization is obtained from the resident, legal representative, or

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responsible party. The designation of the responsible party shall be maintained by the nursing facility in the resident's medical record."

Section 4. G.S. 131E-141(b) reads as rewritten:

"(b) Notwithstanding the provisions of G.S. 8-53, "Communications between physician and patient," or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been clients of the agency being inspected unless that client objects in writing to review of that client's records. Physicians, psychiatrists, nurses, and anyone else involved in giving treatment at or through an agency who may be interviewed by representatives of the Department may disclose to these representatives information related to any inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53, "Communication between physician and patient," or any other rule of law; provided the client has not made written objection to this disclosure. The agency, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or ~~interviews~~ interviews, except as noted in G.S. 131E-124(c), shall be kept confidential by the Department and not disclosed without written authorization of the client or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning an agency without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered "public records" within the meaning of G.S. 132-1, "'Public records' defined.'" Prior to releasing any information or allowing any inspections referred to in this section, the client must be advised in writing by the licensed agency that the client has the right to object in writing to release of information or review of the client's records and that by an objection in writing the client may prohibit the inspection or release of the records."

Section 5. This act is effective when it becomes law. Sections 1 and 2 of this act apply to license applications filed on or after the effective date of this act. The Social Services Commission and the Secretary of Health and Human Services may adopt temporary rules pursuant to Chapter 150B of the General Statutes to implement Sections 1 and 2 of this act.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law upon approval of the Governor at 3:07 p.m. on the 28th day of May, 1999.

H.B. 165 **SESSION LAW 1999-114**

AN ACT TO REENACT THE 1986 LAW PROVIDING FOR RISK-SHARING PLANS, TO AMEND THE IMMUNITY STATUTES FOR THE FAIR AND BEACH PLANS, TO EXTEND THE BEACH PLAN RATE CAP ON WIND POLICIES ISSUED IN THE COASTAL AREA FOR TWO YEARS, AND TO MAKE A TECHNICAL AMENDMENT IN THE BEACH PLAN LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 42 of Chapter 58 of the General Statutes, which expired July 1, 1997, is reenacted.

Section 2. G.S. 58-42-1, as reenacted in Section 1 of this act, reads as rewritten:

"§ *58-42-1. Establishment of plans.*

(a) If the Commissioner finds, after a hearing held in accordance with ~~G.S. 58-2-50,~~ Article 3A of Chapter 150B of the General Statutes, that in all or any part of this State, any amount or kind of insurance authorized by G.S. 58-7-15(4) through G.S. 58-7-15(22) is not readily available in the voluntary market and that the public interest requires the availability of that insurance, he may either:

(1) Promulgate plans to provide insurance coverage for any risks in this State that are, based on reasonable underwriting standards, entitled to obtain but are otherwise unable to obtain coverage; or

(2) Call upon insurers to prepare plans for his approval.

(b) Consistent with G.S. 58-42-5(a)(2), the Commissioner shall at least annually reevaluate a plan promulgated pursuant to this section and shall terminate the plan upon determining that the insurance coverage is readily available in the voluntary market or that the public interest no longer requires the operation of the plan."

Section 2.1. G.S. 58-42-20, as reenacted by Section 1 of this act, reads as rewritten:

"§ *58-42-20. Classification and rates.*

Each plan shall provide for:

(1) The method of classifying risks;

(2) The making and filing of rates ~~which~~ that are not excessive, inadequate, or unfairly discriminatory and that are calculated on an actuarially sound basis and policy forms applicable to the various risks insured by the plan;

(3) The adjusting and processing of claims;

(4) The commission rates to be paid to agents or brokers for coverages written by the plan; and

(5) Any other insurance or investment functions that are necessary for the purpose of providing adequate and readily accessible coverage."

Section 3. G.S. 58-42-45, as reenacted by Section 1 of this act, reads as rewritten:

"§ *58-42-45. Article ~~not~~ subject to Administrative Procedure ~~Act.~~ Act; legislative oversight of plans.*

(a) The provisions of Chapter 150B of the General Statutes shall ~~not~~ apply to this ~~Article, except that G.S. 150B-39 and G.S. 150B-41 apply to hearings conducted under G.S. 58-42-1.~~ Article.

(b) At the same time the Commissioner issues a notice of hearing under G.S. 150B-38, the Commissioner shall provide copies of the notice to the Joint Legislative Administrative Procedure Oversight Committee and to the Joint Legislative Commission on Governmental Operations. The Commissioner shall provide the Committee and Commission with copies of any plan promulgated by or approved by the Commissioner under G.S. 58-42-1(1) or (2)."

Section 4. G.S. 58-42-55, as reenacted in Section 1 of this act, reads as rewritten:

"§ *58-42-55. Expiration.*

This Article shall expire on July 1, ~~1997.~~ 2001."

Section 5. G.S. 58-45-60 reads as rewritten:

"§ *58-45-60. Association and Commissioner immune from liability.*

There shall be no liability on the part of and no cause of action of any nature shall arise against ~~the Commissioner or any of his staff, the Association or its agents or employees, or against any participating insurer, for any inspections made hereunder or any statements made in good faith by them in any reports or communications concerning risks submitted to the Association, or at any administrative hearings conducted in connection therewith under the provisions of this Article.~~ any member insurer, the Association or its agents or employees, the board of directors, or the Commissioner or his representatives for any action taken by them in good faith in the performance of their powers and duties under this Article."

Section 6. G.S. 58-46-35 reads as rewritten:

"§ *58-46-35. Reports of inspection made available; immunity from liability.*

All reports of inspection performed by or on behalf of the association shall be made available to the members of the association, applicants and the Commissioner. There shall be no liability on the part of and no cause of action of any nature shall arise against ~~the Commissioner, any of his staff, the association or any of its agents or employees, or against any participating insurer for any inspections made hereunder or any statements made in good faith by them in any reports or communications concerning risks submitted to the association, or at any administrative hearing conducted in connection therewith under the provisions of this Article.~~ any member insurer, the Association or its agents or employees, the board of directors, or the Commissioner or his representatives for any action taken by them in good faith in the performance of their powers and duties under this Article."

Section 7. G.S. 58-45-15 reads as rewritten:

"§ *58-45-15. Powers and duties of Association.*

The Association shall, pursuant to the provisions of this Article and the plan of operation, and with respect to ~~essential property insurance on insurable property,~~ the insurance coverages authorized in this Article, have the power on behalf of its members:

(1) To cause to be issued policies of insurance to applicants;

(2) To assume reinsurance from its members;
(3) To cede reinsurance to its members and to purchase reinsurance in behalf of its members."

Section 7.1. The prefatory language of Section 8 of Chapter 498 of the 1997 Session Laws reads as rewritten:

"Section 8. Effective January 1, ~~2000,~~ 2002, G.S. 58-45-45(b), as amended by Section 7 of this act, reads as rewritten:".

Section 8. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Section 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law upon approval of the Governor at 3:09 p.m. on the 28th day of May, 1999.

H.B. 239 **SESSION LAW 1999-115**

AN ACT TO AMEND THE LAW GOVERNING PROPERTY TRANSFERS BETWEEN COMMUNITY COLLEGE BOARDS OF TRUSTEES AND COUNTIES FOR COMMUNITY COLLEGE PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"*§ 153A-158.2. Acquisition and improvement of community college property.*

(a) Acquisition. -- A county may acquire, by any lawful method, any interest in real or personal property for use by a community college within the county. In exercising the power of eminent domain for real property, a county shall use the procedures of Chapter 40A of the General Statutes.

(b) Construction; Disposition. -- A county may construct, equip, expand, improve, renovate, repair, or otherwise make available property for use by a community college within the county and may lease, sell, or otherwise dispose of property for use by a community college within the county for any price and on any terms negotiated by the board of county commissioners and the board of trustees of the community college.

(c) Public Hearing. -- A county may use its authority under this section to acquire an interest in real or personal property for use by a community college within the county only upon request of the board of trustees of the community college for which property is to be made available. The board of county commissioners shall hold a public hearing prior to final action. A notice of the public hearing shall be published at least once at least 10 days before the date fixed for the hearing."

Section 2. Article 2 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"*§ 115D-15.1. Disposition, acquisition, and construction of property by community college.*

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(a) Disposition. -- Notwithstanding the provisions of G.S. 115D-14, 115D-15, and 160A-274, the board of trustees of a community college may, in connection with additions, improvements, renovations, or repairs to all or part of its property, lease, sell, or otherwise dispose of any of its property to the county in which the property is located for any price and on any terms negotiated between the board of trustees of the community college and the board of county commissioners.

(b) Transfer. -- An agreement under subsection (a) of this section shall require the county to transfer the property back to the board of trustees of the community college when any financing agreement entered into by the county to finance the additions, improvements, renovations, and repairs has been satisfied. If the county did not enter into a financing agreement, the agreement under subsection (a) of this section shall require the county to transfer the property back to the board of trustees of the community college upon the completion of the additions, improvements, renovations, and repairs.

(c) Acquisition and Construction. -- Notwithstanding the provisions of G.S. 115D-14 and G.S. 115D-20(3), the board of trustees of a community college may acquire, by any lawful method, any interest in real or personal property from the county in which the community college is located for use by the board of trustees and may contract for the construction, equipping, expansion, improvement, renovation, repair, or otherwise making available for use by the board of trustees of the community college of all or part of the property upon any terms negotiated between the board of trustees of the community college and the board of county commissioners.

(d) Approval. -- The actions of a board of trustees of a community college taken pursuant to this section are subject to the approval of the State Board of Community Colleges.

(e) Contract Responsibility. -- A county's obligations under a financing contract entered into by the county to finance improvements to real or personal property pursuant to this section shall be the responsibility of the county and not the responsibility of the board of trustees of the community college."

Section 3. The following laws are repealed:

(1) Chapter 613 of the 1993 Session Laws

(2) Section 3 of Chapter 154 of the 1995 Session Laws

(3) Sections 1, 2, 3, and 4 of Chapter 399 of the 1995 Session Laws

(4) Chapter 706 of the 1995 Session Laws

(5) Chapter 42 of the 1997 Session Laws.

Section 4. Section 3 of this act becomes effective January 1, 2000, and shall not be construed to alter any agreements entered into before that date. The remainder of this act is effective when it becomes law and applies to agreements entered into on or after that date.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law upon approval of the Governor at 3:11 p.m. on the 28th day of May, 1999.

H.B. 715 **SESSION LAW 1999-116**

AN ACT TO PROVIDE THAT UTILIZATION REVIEW CRITERIA FOR SUBSTANCE ABUSE TREATMENT BE CRITERIA ADOPTED BY THE AMERICAN SOCIETY OF ADDICTION MEDICINE (ASAM) OR SIMILAR CRITERIA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-50-61(d) reads as rewritten:

"(d) Program Operations. -- In every utilization review program, an insurer or URO shall use documented clinical review criteria that are based on sound clinical evidence and that are periodically evaluated to assure ongoing efficacy. An insurer may develop its own clinical review criteria or purchase or license clinical review criteria. Criteria for determining when a patient needs to be placed in a substance abuse treatment program shall be either (i) the diagnostic criteria contained in the most recent revision of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders or (ii) criteria adopted by the insurer or its URO. The Department, in consultation with the Department of Health and Human Services, may require proof of compliance with this subsection by a plan or URO.

Qualified health care professionals shall administer the utilization review program and oversee review decisions under the direction of a medical doctor. A medical doctor shall evaluate the clinical appropriateness of noncertifications. Compensation to persons involved in utilization review shall not contain any direct or indirect incentives for them to make any particular review decisions. Compensation to utilization reviewers shall not be directly or indirectly based on the number or type of noncertifications they render. In issuing a utilization review decision, an insurer shall: obtain all information required to make the decision, including pertinent clinical information; employ a process to ensure that utilization reviewers apply clinical review criteria consistently; and issue the decision in a timely manner pursuant to this section."

Section 2. This act becomes effective October 1, 1999, and applies to utilization reviews conducted on and after that date.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

Became law upon approval of the Governor at 3:12 p.m. on the]28th day of May, 1999.

H.B. 1075 **SESSION LAW 1999-117**

AN ACT REGARDING FUNDING AND TRANSPORTATION FOR CHILDREN WITH SPECIAL NEEDS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any policy or rule adopted by the State Board of Education, if a local school administrative unit provides services to

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a student pursuant to a current individual education plan from another state while a determination is being made regarding the student's eligibility for services as a child with special needs in North Carolina, the local school administrative unit is entitled to receive State funding to serve the student while the determination is being made. If the student is later determined not to qualify for services in North Carolina, the local school administrative unit shall not be required to repay State funds received while the determination is being made.

Section 2. The State Board of Education shall study the issue of school transportation for children with special needs. In the course of the study, the State Board shall consider the difficulty local school administrative units are having in meeting the length of school day requirements for these children. The State Board shall report the results of the study and its recommendations to the Joint Legislative Education Oversight Committee prior to January 1, 2000.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law upon approval of the Governor at 3:14 p.m. on the 28th day of May, 1999.

H.B. 201 **SESSION LAW 1999-118**

AN ACT TO AMEND THE LAW RELATING TO THE APPOINTMENT OF SUCCESSOR TRUSTEES TO CONFORM TO THE RULES OF CIVIL PROCEDURE AND TO UPDATE STATUTORY LANGUAGE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36A-25 reads as rewritten:

"*§ 36A-25. Parties hearing; successor appointed.*

Upon the filing of the petition, the clerk shall docket the cause as a special proceeding, with the trustee as plaintiff and the beneficiaries as defendants, and shall issue the summons for the ~~defendants, and the procedure shall be the same as in other special proceedings.~~ defendants. Proceedings under this section are subject to Article 33 of Chapter 1 of the General Statutes. ~~If any of the defendants be nonresidents, summons may be served by publication; and if any be infants, a guardian ad litem must be appointed by the court to represent their interests in the manner now provided by law. The beneficiaries, creditors, or any other person interested in the trust estate, have~~ A beneficiary, creditor, or other person interested in the trust estate has the right to answer the petition and to offer evidence why the prayer of the petition should not be granted. The clerk shall then proceed to hear and determine the ~~matter, and if~~ matter. If it appears to the ~~court~~ clerk that the best interests of the creditors and the beneficiaries demand that the resignation of the trustee be ~~accepted,~~ accepted or if it appears to the ~~court~~ clerk that sufficient reasons exist for allowing the ~~resignation,~~ resignation and that the resignation can be allowed without

prejudice to the rights of creditors or the beneficiaries, the clerk may, in the exercise of ~~his~~ the clerk's discretion, allow the applicant to ~~resign; and in such case the clerk shall proceed to~~ resign. The clerk shall appoint the successor of the petitioner in the manner provided in this Article."

Section 2. G.S. 36A-33 reads as rewritten:

"*§ 36A-33. Appointment of successors to deceased or incapacitated trustees.*

Upon the death or incapacity of a trustee, a new trustee may be appointed on application by ~~any beneficiary,~~ a beneficiary or other interested ~~persons,~~ person by petition to the clerk of the superior court of the county in which the instrument under which the deceased or incapacitated trustee claimed is ~~registered, making~~ registered. The petition shall make all necessary parties defendants. ~~The clerk shall docket the cause as a special proceeding and issue summons for the defendants, and the procedure shall be the same as in other special proceedings.~~ Proceedings under this section are special proceedings subject to Article 33 of Chapter 1 of the General Statutes. ~~If any of the defendants be nonresidents, summons may be served by publication; and if any be infants, a guardian ad litem must be appointed. The beneficiaries, creditors, or any other persons interested in the trust estate shall have~~ A beneficiary, creditor, or other person interested in the trust estate has the right to answer the petition and to offer evidence why the prayer of the petition should not be granted. After hearing the matter, the clerk may appoint the person ~~so~~ named in the ~~petition, or he may appoint~~ petition or some other fit and suitable person or corporation to act as the successor of the deceased or incapacitated ~~trustee; and the~~ trustee. The clerk shall require the person so appointed to give bond as required in ~~G.S. 36A-31; provided, that where by the terms of the instrument upon~~ G.S. 36A-31. If the instrument under which the deceased or incapacitated trustee claimed, ~~said trustee was not required~~ however, does not require the trustee to give bond and ~~did not give bond and an intent is expressed in the creating instrument~~ expresses an intent that a successor trustee ~~shall~~ serve without bond, or ~~where~~ if the clerk upon due investigation, finds that bond is not necessary for the protection of the estate, the requirement of a bond for the successor trustee may be waived as provided in G.S. 36A-31. Any party in interest may appeal from the decision of the clerk as provided in G.S. 36A-27 and 36A-28.

Nothing in this section shall be construed to limit the authority of the clerk of superior court to appoint a successor trustee to a deceased or incapacitated trustee upon ~~his~~ the clerk's own motion."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law upon approval of the Governor at 3:16 p.m. on the 28th day of May, 1999.

H.B. 214 **SESSION LAW 1999-119**

AN ACT TO MAKE TECHNICAL CHANGES TO THE LAND RECORDS STATUTES.

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The General Assembly of North Carolina enacts:

Section 1. G.S. 102-15 reads as rewritten:

"*§ 102-15. Improvement of land records.*

There is hereby established a statewide program for improvement of county land records to be administered by the Secretary of ~~Environment and Natural Resources~~ State (hereafter called the Secretary). First emphasis shall be given to the completion of countywide base maps. Counties with a base map system prepared to acceptable standards will be encouraged to undertake subsequent logical improvements in their respective land records systems. Work undertaken by any county under this program will be eligible for financial assistance out of funds appropriated for this purpose to the Department of ~~Environment and Natural Resources.~~ the Secretary of State. The amount allotted to each project is to be determined by the Secretary, but in no case shall such allotments exceed one dollar for every dollar of local tax funds expended on the project by the county. Federal or other State funds available to the project will not be eligible as matching money under the State program."

Section 2. G.S. 102-17 reads as rewritten:

"*§ 102-17. County projects eligible for assistance.*

All projects funded under this assistance program shall be described as conforming to one or more of the project outlines defined herein. All projects shall achieve a substantial measure of conformity with the objectives set forth in these project outlines such that a greater degree of statewide standardization of land records will result. The Secretary shall prepare and make available to all counties administrative regulations designed to assist the counties in preparing project plans and applications for assistance, and to assure compliance with the objectives and other requirements of G.S. 102-15, 102-16, and this section. County projects shall be eligible for assistance subject to availability of funds, compliance with administrative regulations, and conformity with one or more of the project outlines as follows:

(1) Base Maps. -- Preparation of accurate planimetric or orthophoto maps with countywide coverage at one or more scale ratios suitable as a base for the development and maintenance of current cadastral maps. These maps shall have additional information included where appropriate to increase their utility for other purposes. The formulation of technical standards and detailed specifications and the coordination of all such mapping projects with other State mapping programs shall be the responsibility of the Department of ~~Environment and Natural Resources.~~ the Secretary of State. Insofar as possible mapping projects funded under this assistance program shall utilize existing photography, geodetic control surveys, and previously mapped information, and be coordinated or combined with adjacent or related mapping projects to achieve the best efficiency and economy consistent with the maintenance of high quality map production.

(2) Cadastral Maps. -- Preparation of accurate maps of all property boundaries together with other supporting information and based on up-to-date planimetric or orthophoto maps conforming to the specifications for base maps outlined in subdivision (1) of this

section. The formulation of specifications and standards for these cadastral maps shall be the responsibility of the Department of ~~Revenue.~~ the Secretary of State. These specifications and standards shall be designed to conform to the best acceptable practice for county land records in North Carolina. The cadastral maps shall be scheduled as nearly as possible to be completed and made available for the next revaluation cycle to be undertaken by each county and the maps shall include references to subdivision plat numbers, property codes, and other related information considered useful to the appraisal process or to the public generally.

(3) Standardized Parcel Identifiers. -- Adoption of a system of parcel identifiers which will serve to provide unique identification of each parcel of land, a permanent historical record of change and the chain of title, and any necessary cross-reference to other preexisting parcel identifiers. The proposed system of parcel identifiers shall conform to such minimum specifications and standards as may be promulgated by the Secretary for the purpose of achieving consistency and compatibility among all counties throughout the State. Said minimum specifications and standards for parcel identifier systems shall be adopted and administered by the Secretary only after consultation with the recommendation from an advisory committee on land records with a membership representative of professional organizations concerned with public land records and map making.

(4) Automated Processing of Land Parcel Records. -- Preparation and implementation of a system of automated record keeping and processing which will expedite the maintenance of accurate up-to-date files, improve the appraisal process, and facilitate analytical operations needed to respond to requirements for current information. Technical standards and minimum specifications shall be the joint responsibility of the Department of ~~Environment and Natural Resources,~~ the Secretary of State, the Department of Revenue, and the Department of Cultural Resources."

Section 3. G.S. 161-22.2 reads as rewritten:

"§ *161-22.2. Parcel identifier number indexes.*

(a) In lieu of the alphabetical indexes required by G.S. 161-21, 161-22 and 161-22.1, the register of deeds of any county in which unique parcel identifier numbers have been assigned to all parcels of real property may install an index by land parcel identifier numbers. For each instrument filed of record, the entry in a land parcel identifier number index must contain the following information:

(1) The parcel identifier number of the parcel or parcels affected;

(2) A brief description of the parcel or parcels, including subdivision block and lot number, if any;

(3) A description of the type of instrument recorded and the date the instrument was filed;

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(4) The names of the parties to the instrument to the same extent as required by G.S. 161-22 and the legal status of the parties indexed;

(5) The book and page number, or film reel and frame number, or other file number where the instrument is recorded.

(b) Every instrument affecting real property filed for recording in the office of such register of deeds shall be indexed under the parcel identifier number of the land parcel or parcels affected.

(c) The parcel identifier number index may be maintained in index books, on index cards, on film, or in computers or other automated data-processing machines. If the parcel identifier number index is maintained in a computer or other automated data-processing machine, the register of deeds shall, at least once each month, obtain from the computer or other data-processing machine a printed copy on paper or film of all index entries made since the previous printed copy was obtained. The printed copies shall be retained as security copies and shall not be altered or destroyed.

(d) Before a register of deeds may install a parcel identifier number index in lieu of the alphabetical indexes required by G.S. 161-22, the proposed index must be approved by the Secretary of ~~Environment and Natural Resources.~~ State. Before approving a parcel identifier number index, the Secretary must find that:

(1) The requirements of this section, G.S. 161-22, and all other applicable indexing requirements of the North Carolina General Statutes and applicable judicial decisions will be met by the index;

(2) Measures for the protection of the indexed information are such that computer or other machine failure will not cause an irremediable loss of the information;

(3) Printed forms and index sheets used in the index permit a display of all information required by law and are otherwise adequate;

(4) Any computer or other data-processing machine used and the program for the use of such machines are adequate to perform the tasks assigned to them;

(5) Access to the information contained in the index can be obtained by the use of both a parcel identifier number and the name of any party to an instrument filed of record;

(6) Any parcel identifier number either reflects the State plane coordinates of some point in the parcel, or is keyed to a map of the parcel that shows the location of the parcel within the county;

(7) The parcel identifier numbering system is designed so that no parcel will be assigned the same number as any other parcel within the county;

(8) The parcel identifier numbering system shows for parcels of land created by subdivision, the number of the parcel of land subdivided in addition to the numbers of the newly-created parcels;

(9) The parcel identifier numbering system shows for parcels of land created by the combining of separate parcels, the numbers of the

land parcels that were combined in addition to the number of the newly-created parcel;

(10) The parcel identifier numbering system is capable of identifying condominium units and other separate legal interests that may be created in a single parcel of land;

(11) The parcel identifier numbering system will meet the needs of the users as well as or better than the alphabetical indexes required by G.S. 161-21, 161-22 and 161-22.1.

The Secretary may require a register of deeds seeking approval of a parcel identifier number index to furnish him with any information concerning the index that is pertinent to the findings required for approval.

(e) (1) An approved parcel identifier number index shall become effective as the official real property index of the county as of the first day of July or the first day of January, as the board of commissioners directs, following approval by the Secretary of ~~Environment and Natural Resources.~~ State.

(2) In any county in which a parcel identifier index is the official index, the register of deeds shall post notices in the alphabetical index books and at other appropriate places in his office stating that the parcel identifier number index is the official index and the date when the change became effective."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law upon approval of the Governor at 3:18 p.m. on the 28th day of May, 1999.

H.B. 236 **SESSION LAW 1999-120**

AN ACT TO AMEND THE LAW REGARDING THE BAITING OF ANIMALS AND TO MAKE CORRECTIONS IN THE LAW REGARDING THE MANDATORY SUSPENSION OF HUNTING LICENSES AND PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-291.1(b) reads as rewritten:

"(b) No wild animals or wild birds may be taken:

(1) From or with the use of any vehicle; vessel, other than one manually propelled; airplane; or other conveyance except that the use of vehicles and vessels is authorized:

a. As hunting stands, subject to the following limitations. No wild animal or wild bird may be taken from any vessel under sail, under power, or with the engine running or while still in motion from such propulsion. No wild animal or wild bird may be taken from any vehicle if it is in motion, the engine is running, or the passenger area of the vehicle is occupied. The prohibition of occupying the passenger area of a vehicle does not apply to a disabled individual whose mobility is restricted.

b. For transportation incidental to the taking.

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(2) With the use or aid of any artificial light, net, trap, snare, electronic or recorded animal or bird call, or fire, except as may be otherwise provided by statute[;] provided, however, that crows and coyotes may be taken with the aid of electronic calling devices. No wild birds may be taken with the use or aid of salt, grain, fruit, or other ~~bait, except as may be otherwise provided by statute.~~ bait. No bear or wild boar may be taken with the use or aid of any salt, salt lick, grain, fruit, honey, sugar-based material, animal parts or products, or other ~~bait.~~ bait, and no wild turkey may be taken from an area in which bait has been placed until the expiration of 10 days after the bait has been consumed or otherwise removed. The taking of wild animals and wild birds with poisons, drugs, explosives, and electricity is governed by G.S. 113-261, G.S. 113-262, and Article 22A of this Subchapter. Any person who unlawfully takes bear or wild boar with the use or aid of any type of bait is punishable as provided by ~~G.S. 113-294(c).~~ G.S. 113-294(c1)."

Section 2. G.S. 113-276.3(d) reads as rewritten:

"(d) Any violation of this Subchapter or of any rule adopted by the Wildlife Resources Commission under the authority of this Subchapter which is subject to a penalty greater than the one provided in G.S. 113-135(a)(1) is a suspension offense. Conviction of any of the following suspension offenses results in a suspension for a period of two years:

(1) A violation of G.S. 113-294(b).
(2) A violation of G.S. 113-294(c).
(2a) A violation of G.S. 113-294(c1).
(3) A violation of G.S. 113-294(e).
~~(4) A violation of G.S. 113-294(k).~~

A conviction of any other suspension offense results in a suspension for a period of one year."

Section 3. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law upon approval of the Governor at 3:20 p.m. on the 28th day of May, 1999.

H.B. 316 **SESSION LAW 1999-121**

AN ACT TO ENCOURAGE PRESCRIBED BURNING FOR FORESTRY AND WILDLIFE PURPOSES UNDER CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 4E.

"North Carolina Prescribed Burning Act.

"*§ 113-60.40. Legislative findings.*

The General Assembly finds that prescribed burning of forestlands is a management tool that is beneficial to North Carolina's public safety, forest

and wildlife resources, environment, and economy. The General Assembly finds that the following are benefits that result from prescribed burning of forestlands:

(1) Prescribed burning reduces the naturally occurring buildup of vegetative fuels on forestlands, thereby reducing the risk and severity of wildfires and lessening the loss of life and property.

(2) The State's ever-increasing population is resulting in urban development directly adjacent to fire-prone forestlands, referred to as a woodland-urban interface area. The use of prescribed burning in these woodland-urban interface areas substantially reduces the risk of wildfires that cause damage.

(3) Many of North Carolina's natural ecosystems require periodic fire for their survival. Prescribed burning is essential to the perpetuation, restoration, and management of many plant and animal communities. Prescribed burning benefits game, nongame, and endangered wildlife species by increasing the growth and yield of plants that provide forage and an area for escape and brooding and that satisfy other habitat needs.

(4) Forestlands are economic, biological, and aesthetic resources of statewide significance. In addition to reducing the frequency and severity of wildfires, prescribed burning of forestlands helps to prepare sites for replanting and natural seeding, to control insects and diseases, and to increase productivity.

(5) Prescribed burning enhances the resources on public use lands, such as State and national forests, wildlife refuges, nature preserves, and game lands. Prescribed burning enhances private lands that are managed for wildlife refuges, nature preserves, and game lands. Prescribed burning enhances private lands that are managed for wildlife, recreation, and other purposes.

As North Carolina's population grows, pressures resulting from liability issues and smoke complaints discourage or limit prescribed burning so that these numerous benefits to forestlands often are not attainable. By recognizing the benefits of prescribed burning and by adopting requirements governing prescribed burning, the General Assembly helps to educate the public, avoid misunderstandings, and reduce complaints about this valuable management tool.

"*§ 113-60.41. Definitions.*

As used in this Article:

(1) 'Certified prescribed burner' means an individual who has successfully completed a certification program approved by the Division of Forest Resources of the Department of Environment and Natural Resources.

(2) 'Prescribed burning' means the planned and controlled application of fire to naturally occurring vegetative fuels under safe weather and safe environmental and other conditions, while following appropriate precautionary measures that will confine the fire to a predetermined area and accomplish the intended management objectives.

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(3) 'Prescription' means a written plan prepared by a certified prescribed burner for starting, controlling, and extinguishing a prescribed burning.

"§ *113-60.42. Immunity from liability.*

(a) Any prescribed burning conducted in compliance with G.S. 113-60.43 is in the public interest and does not constitute a public or private nuisance.

(b) A landowner or the landowner's agent who conducts a prescribed burning in compliance with G.S. 113-60.43 shall not be liable in any civil action for any damage or injury caused by or resulting from smoke.

(c) Notwithstanding subsections (a) and (b), this section does not apply when a nuisance or damage results from a negligently or improperly conducted prescribed burning.

"§ *113-60.43. Prescribed burning.*

(a) Prior to conducting a prescribed burning, the landowner shall obtain a prescription for the prescribed burning prepared by a certified prescribed burner and filed with the Division of Forest Resources, Department of Environment and Natural Resources. A copy of the prescription shall be provided to the landowner. A copy of this prescription shall be in the possession of the responsible burner on site throughout the duration of the prescribed burning. The prescription shall include:

(1) The landowner's name and address.
(2) A description of the area to be burned.
(3) A map of the area to be burned.
(4) An estimate in tons of the fuel located on the area.
(5) The objectives of the prescribed burning.
(6) A list of the acceptable weather conditions and parameters for the prescribed burning sufficient to minimize the likelihood of smoke damage and fire escaping onto adjacent areas.
(7) The name of the certified prescribed burner responsible for conducting the prescribed burning.
(8) A summary of the methods that are adequate for the particular circumstances involved to be used to start, control, and extinguish the prescribed burning.
(9) Provision for reasonable notice of the prescribed burning to be provided to nearby homes and businesses to avoid effects on health and property.

(b) The prescribed burning shall be conducted by a certified prescribed burner in accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed burner shall be present on the site and shall be in charge of the burning throughout the period of the burning. A landowner may conduct a prescribed burning without being a certified prescribed burner if the landowner is burning a tract of forestland of 50 acres or less owned by that landowner and is following all conditions established in a prescription prepared by a certified prescribed burner.

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 4C of this Chapter from the Division of Forest Resources, Department of Environment and Natural Resources. This open-burning permit must

remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

(1) The terms and conditions of the open-burning permit under Article 4C of this Chapter.

(2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.

(3) Any applicable local ordinances relating to open burning.

(4) The voluntary smoke management guidelines adopted by the Division of Forest Resources, Department of Environment and Natural Resources.

(5) Any rules adopted by the Division of Forest Resources, Department of Environment and Natural Resources, to implement this Article.

"*§ 113-60.44. Adoption of rules.*

The Division of Forest Resources, Department of Environment and Natural Resources, may adopt rules that govern prescribed burning under this Article.

"*§ 113-60.45. Exemption.*

This Article does not apply when the Secretary of Environment and Natural Resources has cancelled burning permits pursuant to G.S. 113-60.27 or prohibited all open burning pursuant to G.S. 113-60.25."

Section 2. This act becomes effective January 1, 2000.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law upon approval of the Governor at 3:26 p.m. on the 28th day of May, 1999.

H.B. 778 **SESSION LAW 1999-122**

AN ACT TO ADD SIX MEMBERS TO THE STUDY COMMISSION ON THE FUTURE OF ELECTRIC SERVICE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of S.L. 1997-40 reads as rewritten:

"Section 1. The Study Commission on the Future of Electric Service in North Carolina is created. The Commission shall consist of ~~23~~ 29 voting members as follows:

(1) ~~Six~~ Nine members of the Senate to be appointed by the President Pro Tempore of the Senate;

(2) ~~Six~~ Nine members of the House of Representatives to be appointed by the Speaker of the House of Representatives;

(3) The Chief Executive Officer of the North Carolina Electric Membership Corporation or the Chief Executive Officer's designee;

(4) The Chief Executive Officer of ElectriCities of North Carolina or the Chief Executive Officer's designee;

(5) The Chief Executive Officer of Duke Power Company or the Chief Executive Officer's designee;

(6) The Chief Executive Officer of Carolina Power and Light Company or the Chief Executive Officer's designee;
(7) Two residential consumers of electricity, one to be appointed by the President Pro Tempore of the Senate and one to be appointed by the Speaker of the House of Representatives;
(8) One commercial consumer of electricity to be appointed by the President Pro Tempore of the Senate;
(9) Two industrial consumers of electricity, one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President Pro Tempore of the Senate;
(10) One member of the environmental community to be appointed by the Governor; and
(11) One person representing a nationwide electric power marketer to be appointed by the Speaker of the House of Representatives.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair from the General Assembly membership serving on the Commission. The Commission shall meet upon the call of the cochairs. A majority of the Commission shall constitute a quorum for the transaction of business."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law upon approval of the Governor at 3:30 p.m. on the 28th day of May, 1999.

H.B. 1076 **SESSION LAW 1999-123**

AN ACT TO REQUIRE THAT FIRE SERVICE MAINS COMPLY WITH THE NORTH CAROLINA STATE BUILDING CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-10(b) reads as rewritten:

"(b) The Board shall conduct an examination, either oral or written, of all applicants for license to ascertain the ability of the applicant to make a practical application of his knowledge of the profession of contracting, under the classification contained in the application, and to ascertain the qualifications of the applicant in reading plans and specifications, knowledge of estimating costs, construction, ethics and other similar matters pertaining to the contracting business and knowledge of the applicant as to the responsibilities of a contractor to the public and of the requirements of the laws of the State of North Carolina relating to contractors, construction and liens. If the results of the examination of the applicant shall be satisfactory to the Board, then the Board shall issue to the applicant a certificate to engage as a general contractor in the State of North Carolina, as provided in said certificate, which may be limited into five classifications as the common use of the terms are known -- that is,

(1) Building contractor, which shall include private, public, commercial, industrial and residential buildings of all types;

(1a) Residential contractor, which shall include any general contractor constructing only residences which are required to conform to the residential building code adopted by the Building Code Council pursuant to G.S. 143-138;

(2) Highway contractor;

(3) Public utilities contractors, which shall include those whose operations are the performance of construction work on the following subclassifications of facilities:

a. Water and sewer mains and water service lines and house and building sewer lines as defined in the North Carolina State Building Code, and water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations and pumping stations;

b. Water and wastewater treatment facilities and appurtenances thereto;

c. Electrical power transmission facilities, and primary and secondary distribution facilities ahead of the point of delivery of electric service to the customer;

d. Public communication distribution facilities; and

e. Natural gas and other petroleum products distribution facilities; provided the General Contractors Licensing Board may issue license to a public utilities contractor limited to any of the above subclassifications for which the general contractor qualifies, and

(4) Specialty contractor, which shall include those whose operations as such are the performance of construction work requiring special skill and involving the use of specialized building trades or crafts, but which shall not include any operations now or hereafter under the jurisdiction, for the issuance of license, by any board or commission pursuant to the laws of the State of North Carolina.

Public utilities contractors constructing water service lines and house and building sewer lines as provided in (3)a above shall terminate said lines at a valve, box, meter, or manhole or cleanout at which the facilities from the building may be connected. Public utilities contractors constructing fire service mains for connection to fire sprinkler systems shall terminate those lines at a flange, cap, plug, or valve inside the building one foot above the finished floor. All fire service mains shall comply with the NFPA standards for fire service mains as incorporated into and made applicable by Volume V of the North Carolina Building Code."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 20th day of May, 1999.

Became law upon approval of the Governor at 3:32 p.m. on the 28th day of May, 1999.

S.B. 645 **SESSION LAW 1999-124**

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF PARMELE, AND TO

ANNEX CERTAIN DESCRIBED PROPERTY TO THE TOWN OF FAIR BLUFF.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Parmele.

Tract 1

That certain tract of land located on the south side of the southern town limits of the Town of Parmele, in Robersonville Township, Martin County, State of North Carolina, and described as follows:

BEGINNING at a concrete monument located at the point of intersection of the boundary line representing the eastern corporate limits and the boundary line representing the southern corporate limits of the Town of Parmele, which concrete monument is also located S 12-00-00 W 2640.00 feet along the line of the eastern corporate limits of the Town of Parmele from a half-mile post in the eastern corporate limits located on the Seaboard Coastline Railroad, formerly the Albemarle and Raleigh Railroad, and which half-mile post marks the point of beginning in the description of the corporate limits for the Town of Parmele as described in "An act to incorporate the town of Parmele, in the county of Martin", which act was ratified by the General Assembly of North Carolina on the 14th day of February, 1893; thence running along a southwardly extension of the line of the eastern corporate limits of the Town of Parmele S 12-00-00 W 618.00 feet to a point, a corner; thence N 78-00-00 W 5280.00 feet along a line parallel to the line of the southern corporate limits of the Town of Parmele to a point which would be intersected by a southwardly extension of the boundary line representing the western corporate limits of the Town of Parmele, a corner; thence N 12-00-00 E 618.00 feet along a line representing a southwardly extension of the line of the western corporate limits of the Town of Parmele to a concrete monument located at the point of intersection of the boundary line representing the western corporate limits of the Town of Parmele and the boundary line representing the southern corporate limits of the Town of Parmele, a corner; thence along the line of the southern corporate limits of the Town of Parmele S 78-00-00 E 5280.00 feet to a concrete monument located at the point of intersection of the line of the southern corporate limits and the line of the eastern corporate limits of the Town of Parmele, the point of beginning.

Tract 2

That certain tract of land located on both sides of U.S. Highway No. 64 on the west side of the western town limits of the Town of Parmele, in Robersonville Township, Martin County, State of North Carolina, and described as follows:

BEGINNING at the point of intersection of the northern right-of-way (100 feet wide) line of U.S. Highway No. 64 and the boundary line representing the western corporate limits of the Town of Parmele, said point of beginning also being located S 12-00-00 W 919.84 feet along the line of the western corporate limits of the Town of Parmele from the point of intersection of the boundary line representing the western corporate limits and the boundary line representing the northern corporate limits of the Town of Parmele; and running thence from the point of beginning S 12-00-00 W 412.15 feet along the line of the western corporate limits of the Town of Parmele to a point therein, a corner; thence N 76-17-22 W 1837.62 feet to a point in the southern right-of-way line of U.S. Highway No. 64, a corner; thence running with a line across U.S. Highway No. 64, N 70-51-31 E 624.49 feet to a point in the northern right-of-way line of U.S. Highway No. 64, a corner; thence N 00-50-04 W 107.54 feet; thence N 46-19-56 E 125.42 feet; thence S 81-22-56 E 187.79 feet; thence running S 78-44-49 E 1068.08 feet along a line to its point of intersection with the line of the western corporate limits of the Town of Parmele, a corner; thence S 12-00-00 W 199.09 feet along the line of the western corporate limits of the Town of Parmele to its point of intersection with the northern right-of-way line of U.S. Highway No. 64, the point of beginning.

Section 2. The following described property is added to the corporate limits of the Town of Fair Bluff:

Beginning at a point in the centerline of US Highway 76, near its intersection with South Gapway Street in the southern town limits of the Town of Fair Bluff, thence a line 2,000 feet east of and 500 feet west of the centerline of US Highway 76 in a southerly direction approximately 1,600 feet to the point of intersection of the centerline of said US Highway 76 and the centerline of the railroad spur line to Owens Corning.

Section 3. Section 1 of this act is effective when it becomes law. Section 2 of this act becomes effective June 30, 1999.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law on the date it was ratified.

H.B. 437 **SESSION LAW 1999-125**

AN ACT AMENDING THE STATUTORY DEFINITION OF "SUBDIVISION" FOR THE PURPOSE OF SUBDIVISION REGULATION IN JONES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-335 reads as rewritten:

"*§ 153A-335. 'Subdivision' defined.*

For purposes of this Part, 'subdivision' means all divisions of a tract or parcel of land into ~~two~~ five or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included

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within this definition and is not subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

(2) The division of land into parcels greater than ~~10~~ five acres if no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for widening or opening streets; and

(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations."

Section 2. This act applies to Jones County only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law on the date it was ratified.

H.B. 811 **SESSION LAW 1999-126**

AN ACT TO AMEND THE CHARTER OF THE CITY OF HAVELOCK TO INCREASE THE TERM OF THE MAYOR FROM TWO YEARS TO FOUR YEARS BEGINNING WITH THE REGULAR MUNICIPAL ELECTION IN 2001.

The General Assembly of North Carolina enacts:

Section 1. Section 3(a) of the Charter of the City of Havelock, being Chapter 952 of the 1959 Session Laws, as amended by Chapter 152 of the 1977 Session Laws, reads as rewritten:

"(a) The Government of the City of Havelock shall be vested in a mayor and a board of commissioners made up of five members. Regular elections shall be held biennially to ~~elect a mayor for a term of two years and,~~ elect, as their terms expire, commissioners for terms of four ~~years.~~ years and, until the regular election in 2001, a mayor for a term of two years. Beginning with the regular election in 2001, a mayor shall be elected for a term of four years. In the regular election in 1977, and quadrennially thereafter, there shall be elected two commissioners; and in the regular election in 1979, and quadrennially thereafter, there shall be elected three commissioners. Voters in each regular election shall be entitled to ~~one vote for the office of mayor and~~ as many votes for the offices of commissioner as there are full terms for commissioner to be filled pursuant to this ~~subparagraph.~~ subparagraph, and to one vote for the office of mayor in the year in which the term of the mayor expires. The candidate for mayor who receives the highest number of votes shall be declared elected; and candidates for commissioner, equal in number to the number of offices to be filled, who receive the highest number of votes, shall be declared elected."

Section 2. All existing ordinances, resolutions, and other provisions of the City of Havelock not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st of May, 1999.

Became law on the date it was ratified.

H.B. 462 **SESSION LAW 1999-127**

AN ACT TO ALLOW THE TOWNS OF CHADBOURN AND MOUNT GILEAD, AND MONTGOMERY COUNTY, TO COLLECT UTILITY BILLS AS IF THEY WERE TAXES DUE THEM, AND TO ALLOW DARE COUNTY TO CREATE SPECIAL TAX DISTRICTS TO UNDERGROUND ELECTRIC UTILITY LINES.

The General Assembly of North Carolina enacts:

CHADBOURN, MOUNT GILEAD, AND MONTGOMERY COUNTY UTILITY BILL COLLECTION

Section 1. Section 2 of Chapter 1070 of the 1989 Session Laws, as amended by S.L. 1998-84, reads as rewritten:

"Sec. 2. This act applies to the Towns of ~~Richfield~~ Chadbourn, Richfield, Mount Gilead, and ~~Stanfield and~~ Stanfield, the City of ~~Locust~~ Locust, and Montgomery County only."

DARE UTILITY DISTRICT

Section 1.1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground electric utility lines in the district.

Section 2.(a) Procedure. A county board of commissioners may by resolution signify its determination to create a Utility District under the provisions of this act. The resolution shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the boundaries of the district, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 2.(b) The resolution shall include articles of incorporation which shall set forth:

(1) The name of the district;
(2) A statement that the district is organized under this act; and
(3) A description of the boundaries, which may include any territory designated by the county board of commissioners that is not in the corporate limits of any municipality.

Section 2.(c) No territory may be in more than one district.

Section 2.(d) All territory of a district shall be within the county.

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Section 2.(e) A certified copy of the resolution signifying the determination to organize a district under the provisions of this act shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on the resolution. If the Secretary of State finds that the resolution, including the articles of incorporation, conforms to the provisions of this act and that the notice of hearing was properly published, the Secretary of State shall file the resolution and proof of publication in the records of that office, shall issue a certificate of incorporation under the seal of the State, and shall record the same in an appropriate book of record. The issuance of the certificate of incorporation by the Secretary of State shall constitute the district, a public body and body politic and corporate of the State of North Carolina. This certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under the provisions of this act.

Section 2.(f) When the district has been duly organized and its officers appointed as provided by this act, the secretary or clerk of the district shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the district.

Section 3.(a) Annexation to District. By adoption of a resolution, and with the approval of the board of commissioners of a county by resolution, any municipality located wholly within that county may annex the entirety of that municipality to any Utility District created by this act, but no municipality may be in more than one district. The resolution shall be adopted by the municipal governing board after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(b) By adoption of a resolution, the board of commissioners of a county may annex any area within that county but not within the corporate limits of any municipality to a Utility District, but no area may be in more than one district. The resolution shall be adopted by the county board of commissioners after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, the boundaries of the proposed annexation, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(c) If any area in a Utility District is annexed to the corporate limits of any municipality, it shall remain in the same Utility District notwithstanding any other provision of this act.

Section 4.(a) Governing Board. Each Utility District shall be governed by a special commission consisting of one person appointed by the board of commissioners of that county, one person appointed by the

governing board of each municipality that has annexed its territory to the district under Section 3(a) of this act.

Section 4.(b) In the case of Dare County, one person shall also be appointed to the Special Commission by the Roanoke Island Commission established by Part 27A of Article 2 of Chapter 143B of the General Statutes. Appointments shall be for two-year terms.

Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy a tax of up to one dollar ($1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars ($5.00) per month on each commercial or industrial electric power customer bill within the district.

Section 5.(b) The Utility District may receive contributions from the State of North Carolina, local governments, and the private sector for corporate purposes authorized by this act.

Section 5.(c) The commission may contract with the State of North Carolina, another local government, or a private entity for carrying out the projects authorized by this act.

Section 6. Use of Funds. The taxes levied under this act, after being expended for the necessary administrative expenses of the utility district, shall be used only for undergrounding of electric utility lines within the district. The budget for the Utility District shall be adopted by the special commission for that district.

Section 7. Corporate Existence. A Utility District created under this act shall have the power granted by this act, and may do all acts reasonably necessary to fulfill this purpose. A simple majority of the governing board constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

Section 8. Fiscal Control. The Utility District is a special district under G.S. 159-7 and is covered by the applicable provisions of Chapter 159 of the General Statutes.

Section 9.(a) Levy. A tax authorized by this act may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A tax authorized by this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the third month after the date the resolution is adopted. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the tax to determine any administrative lead times that might be desirable.

Section 9.(b) Collection. Every electric utility subject to a tax authorized by this act shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing electric power. The tax shall be stated and charged separately and shall be paid by the purchaser to the utility as trustee for and on account of the Utility District. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the utility. The Utility District shall design, print, and furnish to all appropriate utilities

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in the district the necessary forms for filing returns and instructions to ensure the full collection of the tax. A utility who collects a tax authorized by this act may deduct from the amount remitted to the Utility District a discount equal to the discount the State allows the utility for State sales and use tax. For the purpose of this act, a utility includes a government entity providing electric service, a cooperative, and any other electric utility. A utility shall have the same right to suspend or terminate service for nonpayment of the tax that it has to suspend or terminate service for payment of any other part of the utility bill. The obligation of the utility to pay the tax if the customer has not paid the bill is the same as its liability under G.S. 105-164.4(a)(4a).

Section 9.(c) Administration. The Utility District shall administer a tax it levies under this act. A tax authorized by this act is due and payable to the district finance officer in monthly installments on or before the last day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Utility District. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A tax return filed with the district finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 as if the Utility District was a county. The Utility District may adopt a payment schedule keyed to the billing cycle of the utility collecting the tax rather than the calendar month, as long as there are at least 12 billing cycles per year.

Section 9.(d) Penalties. A person, firm, corporation, or association who fails or refuses to file a tax return or pay a tax authorized by this act as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the Utility District has the same authority to waive the penalties for a tax authorized by this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

Section 9.(e) Increase, Repeal, or Reduction. A tax levied by a district under this act may be increased not in excess of the maximum allowed by this act, repealed or reduced by a resolution adopted by the board of commissioners of the county, acting ex officio on behalf of the Utility District. Repeal or reduction of a tax authorized by this act shall become effective on the first day of a month and may not be earlier than the first day of the third month after the date the resolution is adopted. Repeal or reduction of a tax authorized by this act does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the tax to determine any administrative lead times that might be desirable.

Section 10. Interlocal Agreements. By interlocal agreement adopted under Chapter 160A of the General Statutes, a Utility District created under this act may contract with a municipality or county to handle tax collections and fiscal control.

Section 11. Sections 1.1 through 10 of this act apply to Dare County only.

Section 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of June, 1999.

Became law on the date it was ratified.

S.B. 687 **SESSION LAW 1999-128**

AN ACT TO AMEND THE SUPPLEMENTAL RETIREMENT FUND FOR FULL-TIME PAID FIREFIGHTERS IN THE CITY OF HICKORY.

Whereas, the provisions of Chapter 65 of the 1971 Session Laws, as amended, provided a supplemental retirement fund for firemen in the City of Hickory and modified the application of G.S. 58-84-25, 58-84-30, and 58-84-35 to the City of Hickory; and

Whereas, since the creation of the supplemental pension fund there have been substantial changes in circumstances that affect the integrity of that fund if participation is not limited to a smaller class of persons than all firefighters; and

Whereas, there are no longer persons classified as "part-paid" or "volunteer" who are eligible to participate in the fund; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 3(a) of Chapter 65 of the 1971 Session Laws, as amended by Chapter 407 of the 1981 Session Laws and Chapter 139 of the 1985 Session Laws, reads as rewritten:

"(a) Each City fireman, whether fully paid or part paid, who retired subsequent to January 1, 1960, but before February 28, 1999, and each full-time paid firefighter who retired on or after March 1, 1999, with 20 years or more service and has attained the age of 55, or who had 30 years or more service regardless of age, which service includes service in the United States Armed Service purchased into the North Carolina Local Governmental Employees' Retirement System, shall be entitled to and shall receive in each calendar year following the calendar year in which he retires an annual supplemental retirement benefit, provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of two thousand four hundred dollars ($2,400)."

Section 2. The provisions of this act shall not create a liability for the Hickory Firemen's Supplemental Retirement Fund unless sufficient current assets are available in the Fund to pay fully for the liability.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of June, 1999.

Became law on the date it was ratified.

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H.B. 178 **SESSION LAW 1999-129**

AN ACT TO AUTHORIZE THE TOWN OF JONESVILLE TO CHARGE A FEE NOT TO EXCEED FIVE DOLLARS FOR UNCERTIFIED COPIES OF POLICE INCIDENT OR ACCIDENT REPORTS AND TO AUTHORIZE THE TOWN TO GIVE ANNUAL NOTICE OF VIOLATION TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of S.L. 1998-108 reads as rewritten:

"Section 3. This act applies to the Towns of ~~Denton and Farmville~~ Denton, Farmville, and Jonesville and the City of Greenville only."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of June, 1999.

Became law on the date it was ratified.

H.B. 287 **SESSION LAW 1999-130**

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES REGARDING CHILD CARE, TO REPEAL SECTION 4(B) OF S.L. 1997-506, AND TO MAKE CHANGES REGARDING THE TRAINING MATERIALS THAT MAY BE USED BY CHILD CARE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-88 reads as rewritten:

"*§ 110-88. Powers and duties of the Commission.*

The Commission shall have the following powers and duties:

(1) To develop policies and procedures for the issuance of a license to any child care facility that meets all applicable standards established under this Article.

(1a) To adopt applicable rules and standards based upon the capacity of a child care facility.

(2) To require inspections by and satisfactory written reports from representatives of local or State health ~~agencies and~~ agencies, fire and building inspection ~~agencies~~ agencies, and from representatives of the Department prior to the issuance of ~~a~~ an initial license to any child care center.

(2a) To require annually, inspections by and satisfactory written reports from representatives of local or State health agencies and fire inspection agencies after a license is issued.

(3) Repealed by Session Laws 1997-506, s. 4.

(4) Repealed by Session Laws 1975, c. 879, s. 15.

(5) To adopt rules and develop policies for implementation of this Article, including procedures for application, approval, annual compliance visits for centers, and revocation of licenses.

(6) To adopt rules for the issuance of a provisional license that shall be in effect for no more than 12 consecutive months to a child care facility that does not conform in every respect with the standards established in this Article and rules adopted by the Commission pursuant to this Article but that is making a reasonable effort to conform to the standards.

(6a) To adopt rules for administrative action against a child care facility when the Secretary's investigations pursuant to G.S. 110-105(a)(3) substantiate that child abuse or neglect did occur in the facility. The rules shall provide for types of sanctions which shall depend upon the severity of the incident and the probability of reoccurrence. The rules shall also provide for written warnings and special provisional licenses.

(7) **(See editor's note)** To develop and adopt voluntary enhanced program standards which reflect higher quality child care than the mandatory standards established by this Article. These enhanced program standards must address, at a minimum, staff/child ratios, staff qualifications, parent involvement, operational and personnel policies, developmentally appropriate curricula, and facility square footage.

(8) To develop a procedure by which the Department shall furnish those forms as may be required for implementation of this Article.

(9) Repealed by Session Laws 1985, c. 757, s. 156(66).

(10) To adopt rules for the issuance of a temporary license which shall expire in six months and which may be issued to the operator of a new center or to the operator of a previously licensed center when a change in ownership or location occurs.

(11) To adopt rules for child care facilities which provide care for children who are mildly sick.

(12) To adopt rules regulating the amount of time a child care administrator shall be on-site at a child care center.

~~The Department of Health and Human Services, Division of Child Development and the Child Care Commission shall not promote or require the utilization of training materials, curriculum, or policy developed or provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development.~~ The Division and the Commission shall permit individual facilities to make curriculum ~~decisions.~~ decisions and may not require the standards, policies, or curriculum of any single accrediting child care organization. If Division inquiries to providers include database fields or questions regarding accreditation, the inquiry shall permit daycare providers to fill in any accrediting organization from which they have received accreditation."

Section 2. G.S. 110-91(8) reads as rewritten:

"(8) Qualifications for Staff. -- All child care center administrators shall be at least 21 years of age. All child care center administrators shall have the North Carolina Early Childhood Administration Credential or its equivalent as determined by the Department. All child care administrators performing

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administrative duties as of the date this act becomes law and child care administrators who assume administrative duties at any time after this act becomes law and until September 1, 1998, shall obtain the required credential by September 1, 2000. Child care administrators who assume administrative duties after September 1, 1998, shall begin working toward the completion of the North Carolina Early Childhood Administration Credential or its equivalent within six months after assuming administrative duties and shall complete the credential or its equivalent within two years after beginning work to complete the credential. Each child care center shall be under the direction or supervision of a person meeting these requirements. All staff counted toward meeting the required staff-child ratio shall be at least 16 years of age, provided that persons younger than 18 years of age work under the direct supervision of a credentialed staff person who is at least 21 years of age. All lead teachers in a child care center shall have at least a North Carolina Early Childhood Credential or its equivalent as determined by the Department. Lead teachers shall be enrolled in the North Carolina Early Childhood Credential coursework or its equivalent as determined by the Department within six months after becoming employed as a lead teacher or within six months after this act becomes law, whichever is later, and shall complete the credential or its equivalent within 18 months after enrollment.

For child care centers licensed to care for 200 or more children, the Department, in collaboration with the North Carolina Institute for Early Childhood Professional Development, shall establish categories to recognize the levels of education achieved by child care center administrators and teachers who perform administrative functions. The Department shall use these categories to establish appropriate staffing based on the size of the center and the individual staff responsibilities.

Effective January 1, 1998, an operator of a licensed family child care home shall be at least 21 years old and have a high school diploma or its equivalent. Operators of a family child care home licensed prior to January 1, 1998, shall be at least 18 years of age and literate. Literate is defined as understanding licensing requirements and having the ability to communicate with the family and relevant emergency personnel. Any operator of a licensed family child care home shall be the person on-site providing child care.

No person shall be an operator of nor be employed in a child care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

The Commission shall adopt standards to establish appropriate qualifications for all ~~other~~ staff in child care centers. These

standards shall reflect training, experience, education and credentialing and shall be appropriate for the size center and the level of individual staff responsibilities. It is the intent of this provision to guarantee that all children in child care are cared for by qualified people. ~~No~~ Pursuant to G.S. 110-106, no requirements may interfere with the teachings or doctrine of any established religious organization. The staff qualification requirements of this subdivision do not apply to religious-sponsored child care facilities pursuant to G.S. 110-106."

Section 3. G.S. 110-93 reads as rewritten:

"§ *110-93. Application for a license.*

(a) Each person who seeks to operate a child care facility shall apply to the Department for a license. The application shall be in the form required by the Department. Each ~~operator~~ applicant seeking a license shall be responsible for supplying with the application the necessary supporting data and reports to show conformity with rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article, including any required reports from the local and district health departments, local building inspectors, local firemen, voluntary firemen, and others, on forms which shall be provided by the Department.

(b) If an ~~operator~~ applicant conforms to the rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article as shown in the application and other supporting data, the Secretary shall issue a license that shall remain valid until the Secretary notifies the licensee otherwise pursuant to G.S. 150B-3 or other provisions of this Article, subject to suspension or revocation for cause as provided in this Article. If the applicant fails to conform to the required rules and standards, the Secretary may issue a provisional license under the policies of the Commission. The Department shall notify the ~~operator~~ applicant in writing by registered or certified mail the reasons the Department issued a provisional license.

(c) Repealed by Session Laws 1997-506, s. 10.

(d) Repealed by Session Laws 1977, c. 929, s. 1."

Section 4. G.S. 110-99(b) reads as rewritten:

"(b) A person who provides only drop-in or short-term child care as described in G.S. ~~110-86(2)(d)~~ 110-86(2)(d), excluding drop-in or short-term child care provided in churches, shall notify the Department that the person is providing only drop-in or short-term child care. Any person providing only drop-in or short-term child care as described in G.S. ~~110-86(2)(d)~~ 110-86(2)(d), excluding drop-in or short-term child care provided in churches, shall display in a prominent place at all times a notice that the child care arrangement is not required to be licensed and regulated by the Department and is not licensed and regulated by the Department."

Section 5. Section 4(b) of S.L. 1997-506 is repealed.

Section 6. Chapter 110 of the General Statutes is amended by adding a new section to read:

"*§ 110-88.1. Commission may not interfere with religious training offered in religious-sponsored child care facilities.*

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Nothing in this Article shall be interpreted to allow the State to determine the training or curriculum offered in any religious-sponsored child care facility as defined in G.S. 110-106(a)."

Section 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of May, 1999.

Became law upon approval of the Governor at 9:37 a.m. on the 4th day of June, 1999.

S.B. 1021 **SESSION LAW 1999-131**

AN ACT CONCERNING THE ADMISSIBILITY INTO EVIDENCE OF PUBLIC OR PRIVATE RECORDS MAINTAINED ON PERMANENT, NONERASABLE, MACHINE-READABLE MEDIA AND RELATING TO THE MAINTENANCE AND PRESERVATION OF PUBLIC RECORDS USING THOSE MEDIA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-45.1 reads as rewritten:

"*§ 8-45.1. Photographic reproductions admissible; destruction of originals.*

(a) If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation, X ray or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-R, or CD-RW."

Section 2. G.S. 8-45.3 reads as rewritten:

"*§ 8-45.3. Photographic reproduction of records of Department of Revenue.*

(a) The State Department of Revenue is hereby specifically authorized to have photographed, photocopied, or microphotocopied all records of the Department, including tax returns required by law to be made to the Department, and said photographs, photocopies, or microphotocopies, when certified by the Department as true and correct photographs, photocopies, or

microphotocopies, shall be as admissible in evidence in all actions, proceedings and matters as the originals thereof would have been.

(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-R, or CD-RW."

Section 3. G.S. 8-34 reads as rewritten:

"§ *8-34. Copies of official writings.*

(a) Copies of all official bonds, writings, papers, or documents, recorded or filed as records in any court, or public office, or lodged in the office of the Governor, Treasurer, Auditor, Secretary of State, Attorney General, Adjutant General, or the State Department of Cultural Resources, shall be as competent evidence as the originals, when certified by the keeper of such records or writings under the seal of ~~his~~ the keeper's office when there is such seal, or under ~~his~~ the keeper's hand when there is no such seal, unless the court shall order the production of the original. Copies of the records of the board of county commissioners shall be evidence when certified by the clerk of the board under ~~his~~ the clerk's hand and seal of the county.

(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-R, or CD-RW."

Section 4. G.S. 153A-436 reads as rewritten:

"§ *153A-436. Photographic reproduction of county records.*

(a) A county may provide for the reproduction, by photocopy, photograph, microphotograph, or any other method of reproduction that gives legible and permanent copies, of instruments, documents, and other papers filed with the register of deeds and of any other county records. The county shall keep each reproduction of an instrument, document, paper, or other record in a fire-resistant file, vault, or similar container. If a duplicate reproduction is made to provide a security-copy, the county shall keep the duplicate in a fire-resistant file, vault, or similar container separate from that housing the principal reproduction.

If a county has provided for reproducing records, any custodian of public records of the county may cause to be reproduced any of the records under, or coming under, his custody.

(b) If a county has provided for reproducing some or all county records, the custodian of any instrument, document, paper, or other record may permit it to be removed from its regular repository for up to 24 hours in order to be reproduced. An instrument, document, paper or other record may be removed from the county in order to be reproduced. The board of commissioners may permit an instrument, document, paper, or other record to be removed for longer than 24 hours if a longer period is necessary to complete the process of reproduction.

(c) The original of any instrument, document, or other paper received by the register of deeds and reproduced pursuant to this Article shall be filed, maintained, and disposed of in accordance with G.S. 161-17 and G.S. 121-5. The original of any other county record that is reproduced pursuant

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to this Article may be kept by the county or disposed of pursuant to G.S. 121-5.

(d) If an instrument, document, or other paper received by the register of deeds is reproduced pursuant to this Article, the recording of the reproduction is a sufficient recording for all purposes.

(e) A reproduction, made pursuant to this Article, of an instrument, document, paper, or other record is as admissible in evidence in any judicial or administrative proceeding as the original itself, whether the original is extant or not. An enlargement or other facsimile of the reproduction is also admissible in evidence if the original reproduction is extant and available for inspection under the direction of the court or administrative agency.

(f) The provisions of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-R, or CD-RW."

Section 5. G.S. 160A-490 reads as rewritten:

"§ *160A-490. Photographic reproduction of records.*

(a) General Statutes 153A-436 shall apply to cities. When a county officer is designated by title in that Article, the designation shall be construed to mean the appropriate city officer, and the city council shall perform powers and duties conferred and imposed on the board of county commissioners.

(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-R, or CD-RW."

Section 6. This act becomes effective December 1, 1999, with Sections 1, 2, and 3 applying to proceedings in the courts of this State pending on or after that date.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:00 p.m. on the 4th day of June, 1999.

H.B. 296 **SESSION LAW 1999-132**

AN ACT TO REPEAL OBSOLETE OR UNNECESSARY LAWS AND MAKE TECHNICAL AND CLARIFYING AMENDMENTS AND CORRECTIONS IN VARIOUS INSURANCE STATUTES.

The General Assembly of North Carolina enacts:

PART I. REPEAL OF OBSOLETE OR UNNECESSARY PROVISIONS.

Section 1.1. G.S. 58-3-125, 58-6-10, and 58-71-90 are repealed.

Section 1.2. G.S. 58-87-10(e) reads as rewritten:

"(e) Revenue Source. -- Revenue is credited to the Workers' Compensation Fund from appropriations made to the Department of Insurance for this purpose. In addition, every eligible unit that elects to participate shall pay into the Fund an amount set annually by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its

payment obligations under this section. The amount shall be set as a per capita fixed dollar amount for each member of the roster of the eligible unit.

The payment shall be made to the State Fire and Rescue Commission on or before July 1 of each year. The Commission shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund. ~~If the Commission does not receive an annual payment from an eligible unit by July 1, then that unit shall not receive workers' compensation coverage from the Fund for the fiscal year that begins that July 1.~~"

Section 1.3. G.S. 58-3-115 reads as rewritten:

"§ *58-3-115. Twisting with respect to insurance policies; penalties.*

No insurer shall make or issue, or cause to be issued, any written or oral statement that willfully misrepresents or willfully makes an incomplete comparison as to the terms, conditions, or benefits contained in any policy of insurance for the purpose of inducing or attempting to induce a policyholder in any way to terminate or surrender, exchange, or convert any insurance policy. Any person who violates this section is subject to the provisions of ~~G.S. 58-2-70, 58-3-90 through 58-3-100, and 58-3-125.~~ G.S. 58-2-70 or G.S. 58-3-100."

Section 1.4. G.S. 58-33-45(d) reads as rewritten:

"(d) For the purposes of investigation under this section, the Commissioner shall have all the power conferred upon him by G.S. ~~58-3-125.~~ 58-2-50."

PART II. CONTINUING CARE RETIREMENT COMMUNITY NAME CORRECTION.

Section 2.1. G.S. 58-30-10(14) reads as rewritten:

"(14) 'Insurer' means any entity licensed under Articles 7, 16, 26, 49, 65, or 67 of this Chapter and any employer that has furnished to the Commissioner satisfactory proof of its financial responsibility under G.S. 97-93(a)(2). For purposes of this Article, 'insurer' also includes continuing care retirement ~~centers~~ communities licensed under Article 64 of this Chapter."

Section 2.2. The title of Article 64 of Chapter 58 of the General Statutes reads as rewritten:

"ARTICLE 64.

"~~Registration, Disclosure, Contract, and Financial Monitoring Requirements for~~

Continuing Care ~~Facilities.~~ Retirement Communities."

Section 2.3. G.S. 58-64-1 reads as rewritten:

"§ *58-64-1. Definitions.*

As used in this Article, unless otherwise specified:

(1) 'Continuing care' means the furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, ~~pursuant to~~ under an agreement effective for the life of the individual or for a period ~~in excess of~~ longer than one year.

(2) 'Entrance fee' means a payment that assures a resident a place in a facility for a term of years or for life.

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(3) 'Facility' means the ~~place or places~~ retirement community or communities in which a provider undertakes to provide continuing care to an individual.

(4) 'Health related services' means, at a minimum, nursing home admission or assistance in the activities of daily living, exclusive of the provision of meals or cleaning services.

(5) 'Living unit' means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified residents.

(6) 'Provider' means the promoter, developer, or owner of a ~~continuing care~~ facility, whether a natural person, partnership, or other unincorporated association, however organized, trust, or corporation, of an institution, building, residence, or other place, whether operated for profit or not, or any other person, that solicits or undertakes to provide continuing care under a continuing care facility contract, or that represents ~~himself~~ himself, herself, or itself as providing continuing care or 'life care.'

(7) 'Resident' means a purchaser of, a nominee of, or a subscriber to, a continuing care contract.

(8) 'Hazardous financial condition' means a provider is insolvent or in eminent danger of becoming insolvent."

Section 2.4. G.S. 58-64-40(b) reads as rewritten:

"(b) The board of directors or other governing body of a ~~continuing care~~ facility or its designated representative shall hold annual meetings with the residents of the ~~continuing care~~ facility for free discussions of subjects including, but not limited to, income, expenditures, and financial trends and problems as they apply to the facility and discussions of proposed changes in policies, programs, and services. Residents shall be entitled to at least seven days advance notice of each meeting. An agenda and any materials that will be distributed by the governing body at the meetings shall remain available upon request to residents."

Section 2.5. G.S. 58-64-80 reads as rewritten:

"*§ 58-64-80. Advisory Committee.*

There shall be a nine member Continuing Care Advisory Committee appointed by the Commissioner. The Committee shall consist of at least two residents of ~~continuing care communities,~~ facilities, two representatives of the North Carolina Association of Nonprofit Homes for the Aging, one individual who is a certified public accountant and is licensed to practice in this State, one individual skilled in the field of architecture or engineering, and one individual who is a health care professional."

PART III. WORKERS' COMPENSATION LOSS COSTS CONFORMING CHANGES.

Section 3.1. G.S. 58-36-1(2) reads as rewritten:

"(2) The Bureau shall provide reasonable means to be approved by the Commissioner whereby any person affected by a rate or loss costs made by it may be heard in person or by ~~his~~ the person's

authorized representative before the governing committee or other proper executive of the Bureau."

Section 3.2. G.S. 58-36-1(5)c. reads as rewritten:

"c. Failure or refusal by any assigned employer risk to make full disclosure to the Bureau, servicing carrier, or insurer writing a policy of information regarding the employer's true ownership, change of ownership, operations, or payroll, or any other failure to disclose fully any records pertaining to workers' compensation insurance shall be sufficient grounds for ~~the Bureau to authorize~~ the termination of the policy of that employer."

Section 3.3. G.S. 58-36-10 reads as rewritten:

"*§ 58-36-10. Method of rate making; factors considered.*

The following standards shall apply to the making and use of rates:

(1) Rates or loss costs shall not be excessive, inadequate or unfairly discriminatory.

(2) Due consideration shall be given to actual loss and expense experience within this State for the most recent three-year period for which ~~such~~ that information is available; to prospective loss and expense experience within this State; to the hazards of conflagration and catastrophe; to a reasonable margin for underwriting profit and to contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to investment income earned or realized by insurers from their unearned premium, loss, and loss expense reserve funds generated from business within this State; to past and prospective expenses specially applicable to this State; and to all other relevant factors within this State: Provided, however, that countrywide expense and loss experience and other countrywide data may be considered only where credible North Carolina experience or data is not available.

(3) In the case of fire insurance rates, as are subject to the ratemaking authority of the Bureau, consideration may be given to the experience of such fire insurance business during the most recent five-year period for which ~~such~~ that experience is available. In the case of fire insurance rates that are subject to the ratemaking authority of the Bureau, consideration shall be given to the insurance public protection classifications of rural fire districts based upon standards established by the Commissioner. To the extent credits are provided for proximity to fire hydrants, the Bureau may also provide appropriate credits in public protection classifications for optional water sources, such as ponds, lakes, or other bodies of water, in accordance with standards and procedures filed with and approved by the Commissioner.

(4) Risks may be grouped by classifications and lines of insurance for establishment of ~~rates~~ rates, loss costs, and base premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans ~~which~~ that establish standards for measuring variations in hazards or expense provisions or both.

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~~Such~~ Those standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. The Bureau ~~is directed to~~ shall establish and implement a comprehensive classification rating plan for motor vehicle insurance under its ~~jurisdiction within 90 days of September 1, 1977.~~ jurisdiction. No such classification plans shall base any standard or rating plan for private passenger (nonfleet) motor vehicles, in whole or in part, directly or indirectly, upon the age or ~~sex~~ gender of the persons insured. The Bureau shall at least once every three years make a complete review of the filed classification rates to determine whether they are proper and supported by statistical evidence, and shall at least once every 10 years make a complete review of the territories for nonfleet private passenger motor vehicle insurance to determine whether they are proper and reasonable.

(5) In the case of workers' compensation insurance and employers' liability insurance written in connection therewith, due consideration shall be given to the past and prospective effects of changes in compensation benefits and in legal and medical fees that are provided for in General Statutes Chapter 97."

Section 3.4. G.S. 58-36-15(a) reads as rewritten:

"(a) The Bureau shall file with the Commissioner copies of the rates, loss costs, classification plans, rating plans and rating systems used by its members. Each rate or loss costs filing shall become effective on the date specified in the filing, but not earlier than 105 days from the date the filing is received by the Commissioner: Provided that (1) rate or loss costs filings for workers' compensation insurance and employers' liability insurance written in connection therewith shall not become effective earlier than 120 days from the date the filing is received by the Commissioner or on the date as provided ~~under~~ in G.S. 58-36-100, whichever is earlier; and (2) any filing may become effective on a date earlier than that specified in this subsection upon agreement between the Commissioner and the Bureau."

Section 3.5. G.S. 58-36-15(f) reads as rewritten:

"(f) On or before September 1 of each calendar ~~year~~ year, or later with the approval of the Commissioner, the Bureau shall submit to the Commissioner the experience, data, statistics, and information referred to in subsection (c) of this section and required under G.S. 58-36-100 and a residual market rate or prospective loss costs review based on ~~such~~ those data for workers' compensation insurance and employers' liability insurance written in connection therewith. Any rate or loss costs increase for ~~such~~ that insurance that is implemented ~~pursuant to~~ under this Article shall become effective solely to ~~such insurance as is written having~~ insurance with an inception date on or after the effective date of the rate or loss costs increase."

Section 3.6. G.S. 58-36-15(g) reads as rewritten:

"(g) The following information must be included in policy form, rule, and rate or loss costs filings under this Article and under Article 37 of this Chapter:

(1) A detailed list of the rates, loss costs, rules, and policy forms filed, accompanied by a list of those superseded; and

(2) A detailed description, properly referenced, of all changes in policy forms, rules, prospective loss costs, and rates, including the effect of each change."

Section 3.7. G.S. 58-36-30(a) reads as rewritten:

"(a) ~~No insurer, officer, agent or representative thereof~~ Except as permitted by G.S. 58-36-100 for workers' compensation loss costs filings, no insurer and no officer, agent, or representative of an insurer shall knowingly issue or deliver or knowingly permit the issuance or delivery of any policy of insurance in this State ~~which~~ that does not conform to the rates, rating plans, classifications, schedules, rules and standards made and filed by the Bureau. ~~However, an~~ An insurer may deviate from the rates promulgated by the Bureau ~~provided~~ if the insurer has filed the proposed deviation ~~to be applied both~~ with the Bureau and the Commissioner, ~~and provided the deviation is uniform in its application to all risks in the State of the class to which the deviation is to apply; and provided such deviation is approved by the Commissioner.~~ if the proposed deviation is based on sound actuarial principles, and if the proposed deviation is approved by the Commissioner. ~~The Commissioner shall approve proposed deviations if they do not render the rates excessive, inadequate or unfairly discriminatory. If approved, the deviation may thereafter be amended, subject to the provisions of this subsection.~~ Amendments to deviations are subject to the same requirements as initial filings. ~~The deviation may be terminated~~ An insurer may terminate a deviation only if the deviation has been in effect for a period of six months before the effective date of the termination and the insurer notifies the Commissioner of the termination no later than 15 days before the effective date of the termination."

Section 3.8. G.S. 58-36-30(c) reads as rewritten:

"(c) ~~Any deviation with respect to workers' compensation and employers' liability insurance written in connection therewith as filed under subsection (a) of this section shall apply uniformly to all classifications.~~ Any approved rate under subsection (b) of this section with respect to workers' compensation and employers' liability insurance written in connection therewith shall be furnished to the Bureau."

Section 3.9. G.S. 58-36-100(a) reads as rewritten:

"(a) ~~Nothing in this section requires the Bureau or its member insurers to refile rates previously implemented before two years after the effective date of this section. Any member insurer of the Bureau may continue to use all rates and deviations filed and approved for its use until disapproved, or the insurer makes its own filing to change its rates, either by making an independent filing or by filing a reference filing adoption form adopting the Bureau's prospective loss costs, or modification thereof.~~ Except as provided in ~~subsection~~ subsections (k) and (m) of this section, ~~with the initial prospective loss costs reference filing,~~ the Bureau shall no longer develop or file any minimum premiums, minimum premium formulas, or expense constants. If an insurer wishes to amend minimum premium ~~formulas,~~ formulas or expense constants, it must file the minimum premium rules, formulas, or amounts it proposes to use. A copy of each filing submitted to

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the Commissioner under subsections (e) and (g) of this section shall also be sent to the Bureau."

Section 3.10. G.S. 58-36-100(b)(1) reads as rewritten:

"(1) 'Expenses'. -- That portion of a rate attributable to acquisition, field supervision, collection expenses, any tax levied by the State or by any political subdivision of the State, licensing costs, fees, and general expenses, as determined by the insurer."

Section 3.11. G.S. 58-36-100(c) reads as rewritten:

"(c) Except as provided in subsection (m) of this section, for workers' compensation and employers' liability insurance written in connection with workers' compensation insurance, the Bureau shall no longer develop or file advisory final rates that contain provisions for expenses (other than loss adjustment expenses) and profit. The Bureau shall instead develop and file for approval with the Commissioner, in accordance with this section, reference filings containing advisory prospective loss costs and the underlying loss data and other supporting statistical and actuarial information for any calculations or assumptions underlying these loss costs. Loss-based ~~assessments, any tax levied by the State or any political subdivision of the State, licensing costs, and fees~~ assessments will be included in prospective loss costs."

Section 3.12. G.S. 58-36-100(k) reads as rewritten:

"(k) The Bureau shall file with the Commissioner, for approval, filings containing a revision of rules and supplementary rating information. This includes policy-writing rules, rating plans, classification codes and descriptions, and rules that include factors or relativities, such as ~~employers' liability~~ increased limits ~~factors,~~ factors and related minimum premiums classification relativities, or similar ~~factors, but excludes minimum premiums.~~ factors. The Bureau may print and distribute manuals of rules and supplementary rating ~~information, excluding minimum premiums.~~ information."

PART IV. HEALTH INSURANCE CLARIFYING CHANGES.

Section 4.1. G.S. 58-50-130(a) is amended by adding a new subdivision to read:

"(4b) Late enrollees may only be excluded from coverage for the greater of 18 months or an 18-month preexisting-condition exclusion; however, if both a period of exclusion from coverage and a preexisting-condition exclusion are applicable to a late enrollee, the combined period shall not exceed 18 months. If a period of exclusion from coverage is applied, a late enrollee shall be enrolled at the end of that period in the health benefit plan held at the time by the small employer."

Section 4.2. G.S. 58-51-55(d) reads as rewritten:

"(d) Applicability. -- Subsection (b1) of this section applies only to group health insurance ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than 50 employees. The remainder of this section applies only to group health insurance contracts covering 20 or more employees. For purposes of this section, 'group health insurance contracts' include MEWAs, as defined in G.S. 58-49-30(a)."

Section 4.3. G.S. 58-65-90(d) reads as rewritten:

"(d) Applicability. -- Subsection (b1) of this section applies only to subscriber ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than 50 employees. The remainder of this section applies only to group contracts covering 20 or more employees."

Section 4.4. G.S. 58-67-75(d) reads as rewritten:

"(d) Applicability. -- Subsection (b1) of this section applies only to group ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than 50 employees. The remainder of this section applies only to group contracts covering 20 or more employees."

Section 4.5. Reserved.

Section 4.6. G.S. 58-68-40(e) reads as rewritten:

"(e) Exception for ~~Coverage Offered Only to Bona Fide Association Members.~~ Coverage. -- Subsection (a) of this section does not apply to:

(1) Health insurance coverage offered by a health insurer if the coverage is made available in the small group market only through one or more bona fide associations.

(2) A self-employed individual as defined in ~~G.S. 58-50-110(21a).~~ G.S. 58-50-110(21a), except as otherwise provided for the basic and standard health care plans under the North Carolina Small Employer Group Health Coverage Reform Act."

Section 4.7. G.S. 58-68-60(b)(2) reads as rewritten:

"(2) Who is not eligible for coverage under (i) ~~an ERISA~~ a group health plan, (ii) part A or part B of title XVIII of the Social Security Act, or (iii) a State plan under title XIX of the Act (or any successor program), and does not have other health insurance coverage;".

Section 4.8. Section 3.19 of Session Law 1997-519 reads as rewritten:

"Section 3.19. Except as modified by G.S. 58-50-56(i), as enacted in this Part, any administrative rules that were adopted by the Commissioner under the authority of ~~G.S. 58-50-50 or G.S. 58-50-55~~ G.S. 58-65-140, 58-50-50, or 58-50-55 and that were effective before January 1, 1998, are not affected by the repeals in Section 3.16 or Section 3.17 of this act."

PART V. BAIL BONDS.

Section 5. G.S. 58-71-82 reads as rewritten:

"*§ 58-71-82. Dual license holding.*

If an individual holds a professional bondsman's license or a runner's license and a surety bondsman's license simultaneously, they are considered one license for the purpose of disciplinary actions involving suspension, revocation, or ~~renewal~~ nonrenewal under this Article. Separate renewal fees must be paid for each license, however."

PART VI. AGENT ASSOCIATIONS MERGER.

Section 6.1. G.S. 58-32-1 reads as rewritten:

"*§ 58-32-1. Commission created; membership.*

There is hereby created within the Department a Public Officers and Employees Liability Insurance Commission. The Commission shall consist

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of 11 members who shall be appointed as follows: the Commissioner shall appoint six members as follows: two members who are members of the insurance industry who may be chosen from a list of ~~three~~ six nominees submitted to the Commissioner by the Independent Insurance Agents of North Carolina, ~~Inc., and a list of three nominees submitted by the Carolinas Association of Professional Insurance Agents, North Carolina Division;~~ Inc.; one member who is employed by a police department who may be chosen from a list of three nominees submitted to the Commissioner jointly by the North Carolina Police Chiefs Association and North Carolina Police Executives Association, and one member who is employed by a sheriff's department who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina Sheriff's Association; one member representing city government who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina League of Municipalities; and one member representing county government who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina Association of County Commissioners; and the General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President Pro Tempore of the Senate. The Commissioner or ~~his~~ the Commissioner's designate shall be an ex officio member. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. The Secretary of the Department of Crime Control and Public Safety or ~~his~~ the Secretary's designate shall be an ex officio member. The Attorney General or ~~his~~ the Attorney General's designate shall be an ex officio member. One insurance industry member appointed by the Commissioner shall be appointed to a term of two years and one insurance industry member shall be appointed to a term of four years. The police department member shall be appointed to a term of two years and the sheriff's department member shall be appointed to a term of four years. The representative of county government shall be appointed to a term of two years and the representative of city government to a term of four years. Beginning July 1, 1983, the appointment made by the General Assembly upon the recommendation of the Speaker shall be for two years, and the appointment made by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be for four years. Except as provided in this section, if any vacancy occurs in the membership of the Commission, the appointing authority shall appoint another person to fill the unexpired term of the vacating member. After the initial terms established herein have expired, all appointees to the Commission shall be appointed to terms of four years.

The Commission members shall elect the ~~chairman and vice-chairman~~ chair and vice-chair of the Commission. The Commission may, by majority vote, remove any member of the Commission for chronic absenteeism, misfeasance, malfeasance or other good cause."

Section 6.2. G.S. 58-37-35(d) reads as rewritten:

"(d) The Facility shall be administered by a Board of Governors. The Board of Governors shall consist of 12 members having one vote each from the classifications hereinafter enumerated plus the Commissioner who shall serve ex officio without vote. Each Facility insurance company member serving on the Board shall be represented by a senior officer of the company. Not more than one company in a group under the same ownership or management shall be represented on the Board at the same time. Five members of the Board shall be selected by the member insurers, which members shall be fairly representative of the industry. To insure representative member insurers, one each shall be selected from the following groups: the American Insurance Association (or its successors), the Alliance of American Insurers (or its successors), the National Association of Independent Insurers (or its successors), all other stock insurers not affiliated with the above groups, and all other nonstock insurers not affiliated with the above groups. The Commissioner shall appoint two members of the Board who shall be Facility insurance company members domiciled in this State. The Commissioner shall appoint one member of the Board who shall be selected from a list of two nominees submitted by the Auto Insurance Agents of North Carolina, Inc. The Commissioner shall appoint four members of the Board who shall be fire and casualty insurance agents licensed in this State and actively engaged in writing motor vehicle insurance in this State. The Commissioner shall select ~~one agent~~ two agents from among a list of ~~two~~ four nominees submitted by the Independent Insurance Agents of North Carolina, ~~Inc., and one agent from among a list of two nominees submitted by the Carolinas Association of Professional Insurance Agents.~~ Inc., (or its successors). The initial term of office of said Board members shall be two years. Following completion of initial terms, successors to the members of the original Board of Governors shall be selected to serve three years. All members of the Board of Governors shall serve until their successors are selected and qualified and the Commissioner may fill any vacancy on the Board from any of the aforementioned classifications until such vacancies are filled in accordance with the provisions of this Article. The Board of Governors of the Facility shall also have as nonvoting members two persons who are not employed by or affiliated with any insurance company or the Department and who are appointed by the Governor to serve at ~~his~~ the Governor's pleasure."

Section 6.3. G.S. 58-33-135(b) reads as rewritten:

"(b) The ~~fire and casualty~~ property and liability advisory committee shall comprise:

(1) Two employees of the Department of Insurance;

(2) ~~One representative~~ Two representatives from a list of ~~two~~ four nominees submitted by the Independent Insurance Agents of North Carolina;

~~(3) One representative from a list of two nominees submitted by the Carolinas Association of Professional Insurance Agents (North Carolina Division);~~

(4) One representative of a licensed property and ~~casualty~~ liability insurance company writing business in this State that operates through an exclusive agency force;

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(5) One representative from a list of two nominees submitted by the North Carolina Adjusters Association;
(6) One representative of ~~fire~~ property and ~~casualty~~ liability insurers from a list of two nominees submitted by the Association of North Carolina Property and Casualty Insurance Companies; and
(7) One representative from a list of two nominees submitted by the Department of Community Colleges."

PART VII. MISCELLANEOUS CORRECTIONS.

Section 7.1. G.S. 58-3-15 reads as rewritten:

"*§ 58-3-15. Additional or coinsurance clause.*

No insurance company or agent licensed to do business in this State may issue any policy or contract of insurance covering property in this State ~~which shall contain~~ that contains any clause or provision requiring the insured to take or maintain a larger amount of insurance than that expressed in ~~such~~ the policy, nor in any way provide that the insured shall be liable as a coinsurer with the company issuing the policy for any part of the loss or damage to the property described in ~~such~~ the policy, and any such clause or provision shall be null and void, and of no effect: Provided, the coinsurance clause or provision may be written in or attached to a policy or policies issued when there is printed or stamped on the ~~filing face~~ declarations page of ~~such~~ the policy or on the form containing ~~such~~ the clause the words 'coinsurance contract,' and the Commissioner may, in ~~his~~ the Commissioner's discretion, determine the location of the words 'coinsurance contract' and the size of the type to be used. If there ~~be~~ is a difference in the rate for the insurance with and without the coinsurance clause, the rates for each shall be furnished the insured upon request."

Section 7.2. G.S. 58-30-5 reads as rewritten:

"*§ 58-30-5. Persons covered.*

The proceedings authorized by this Article may be applied to:

(1) All insurers ~~who~~ that are doing, or have done, an insurance business in this State, and against whom claims arising from that business may exist now or in the future.
(2) All insurers ~~who~~ that purport to do an insurance business in this State.
(3) All insurers ~~who~~ that have insureds resident in this State.
(4) All persons organized or in the process of organizing with the intent to do an insurance business in this State.
(5) All persons subject to Articles 64, 65 and 66, or 67 of this Chapter; except to the extent there is a conflict between the provisions of this Article and the provisions of those Articles, in which case those Articles will govern.
(6) Self-insured group workers' compensation funds ~~organized under G.S. 97-93(a)(2).~~ subject to Article 47 of this Chapter."

Section 7.3. G.S. 58-30-10(14) reads as rewritten:

"(14) 'Insurer' means any entity that is or should be licensed under Articles 7, 16, 26, 47, 49, 65, or 67 of this Chapter ~~and any employer that has furnished to the Commissioner satisfactory proof of its financial responsibility under G.S. 97-93(a)(2).~~ or

under Article 5 of Chapter 97 of the General Statutes. For the purposes of this Article, 'insurer' also includes continuing care retirement centers that are or should be licensed under Article 64 of this Chapter."

PART VIII. AUTOMOBILE INSURANCE.

Section 8.1. G.S. 58-36-75(c) is repealed.

Section 8.2. G.S. 58-37-1(7) reads as rewritten:

"(7) 'Motor vehicle insurance' means direct insurance against liability arising out of the ownership, operation, maintenance or use of a motor vehicle for bodily injury including death and property damage and includes medical payments and uninsured and underinsured motorist coverages.

With respect to motor carriers who are subject to the financial responsibility requirements established under the Motor Carrier Act of 1980, the term, 'motor vehicle insurance' includes coverage with respect to environmental restoration. As used in this subsection the term, 'environmental restoration' means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release, or escape into or upon the land, atmosphere, water course, or body of water of any commodity transported by a motor carrier. Environmental restoration includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife."

Section 8.3. G.S. 58-37-35(b)(2) reads as rewritten:

"(2) Additional ceding privileges for motor vehicle insurance shall be provided by the Board of Governors if there is a substantial public demand for a coverage or coverage limit of any component of motor vehicle insurance up to the following:

Bodily injury liability: one hundred thousand dollars ($100,000) each person, three hundred thousand dollars ($300,000) each accident;

Property damage liability: fifty thousand dollars ($50,000) each accident;

Medical payments: two thousand dollars ($2,000) each person;

Underinsured motorist: ~~one hundred thousand dollars ($100,000)~~ one million dollars ($1,000,000) each person and ~~three hundred thousand dollars ($300,000)~~ each accident for bodily injury liability;

Uninsured motorist: ~~one hundred thousand dollars ($100,000)~~ one million dollars ($1,000,000) each person and each accident for bodily injury and ~~fifteen thousand dollars ($15,000)~~ fifty thousand dollars ($50,000) for property damage (one hundred dollars ($100.00) deductible)."

Section 8.4. G.S. 58-37-35(e) reads as rewritten:

"(e) The Commissioner and member companies shall provide for a Board of ~~Governors within 30 days after May 24, 1973. If any member seat on~~

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~~the initial Board of Governors is not filled in accordance with this Article within such time, then, in that event the Commissioner shall appoint natural persons from any of the classifications specified in subsection (d) of this section to serve the initial term on the Board of Governors. As soon as possible after its selection, the Commissioner shall call for the initial meeting of the Board.~~ Governors. ~~After the~~ The Board of Governors ~~have been selected it~~ shall ~~then~~ elect from its membership a ~~chairman~~ chair and shall ~~then~~ meet ~~thereafter as often as~~ at the call of the ~~chairman shall require~~ chair or at the request of ~~three~~ four members of the Board of Governors. The ~~chairman~~ chair shall retain the right to vote on all issues. ~~Five~~ Seven members of the Board of Governors shall constitute a quorum. The same member may not serve as ~~chairman~~ chair for more than two consecutive ~~years.~~ years; provided, however, that a member may continue to serve as chair until a successor chair is elected and qualified."

Section 8.5. G.S. 58-37-40(e) reads as rewritten:

"(e) Upon approval of the Commissioner of the plan so submitted or promulgation of a plan deemed approved by the Commissioner, all insurance companies licensed to write motor vehicle insurance in this State or any component thereof as a prerequisite to further engaging in writing the insurance shall formally subscribe to and participate in the plan so approved.

The plan of operation shall provide for, among other matters, (i) the establishment of necessary facilities; (ii) the management of the Facility; (iii) the preliminary assessment of all members for initial expenses necessary to commence operations; (iv) the assessment of members if necessary to defray losses and expenses; (v) the distribution of gains to defray losses incurred since September 1, 1977; (vi) the distribution of gains by credit or reduction of recoupment ~~or allocation~~ surcharges to policies subject to recoupment ~~or allocation~~ surcharges pursuant to this Article (the Facility may apportion the distribution of gains among the coverages eligible for cession pursuant to this Article); (vii) the recoupment ~~or allocation~~ of losses sustained by the Facility since September 1, 1977, pursuant to this Article, which losses may be recouped by equitable pro rata assessment of ~~member companies;~~ companies or by way of a surcharge on motor vehicle policies issued by member companies or through the Facility; (viii) the standard amount (one hundred percent (100%) or any equitable lesser amount) of coverage afforded on eligible risks which a member company may cede to the Facility; and (ix) the procedure by which reinsurance shall be accepted by the Facility. The plan shall further provide that:

(1) Members of the Board of Governors shall receive reimbursement from the Facility for their actual and necessary expenses incurred on Facility business, en route to perform Facility business, and while returning from Facility business plus a per diem allowance of twenty-five dollars ($25.00) a day which may be waived.

(2) In order to obtain a transfer of business to the Facility effective when the binder or policy or renewal thereof first becomes effective, the company must within 30 days of the binding or policy effective date notify the Facility of the identification of the insured, the coverage and limits afforded, classification data, and premium. The Facility shall accept risks at other times on receipt

of necessary information, but acceptance shall not be retroactive. The Facility shall accept renewal business after the member on underwriting review elects to again cede the business."

Section 8.6. G.S. 58-37-40(f) reads as rewritten:

"(f) The plan of operation shall provide that every member shall, following payment of any pro rata assessment, ~~commence~~ begin recoupment of that assessment by way of a surcharge on motor vehicle insurance policies issued by the member or through the Facility until the assessment has been recouped. ~~Such~~ Any surcharge under this subsection or under subsection (e) of this section shall be a percentage of premium adopted by the Board of Governors of the Facility; and the charges determined on the basis of the surcharge shall be combined with and displayed as a part of the applicable premium charges. ~~Provided, however, that recoupment~~ Recoupment of losses sustained by the Facility since September 1, 1977, with respect to nonfleet private passenger motor vehicles may be ~~recouped~~ made only by surcharging nonfleet private passenger motor vehicle insurance policies. ~~policies (i) that are subject to the classification plan promulgated pursuant to G.S. 58-36-65 and (ii) to which one or more driving record points have been assigned pursuant to said plan, subject to the provisions of G.S. 58-36-75.~~ If the amount collected during the period of surcharge exceeds assessments paid by the member to the Facility, the member shall pay over the excess to the Facility on a date specified by the Board of Governors. If the amount collected during the period of surcharge is less than the assessments paid by the member to the Facility, the Facility shall pay the difference to the member. Except as ~~hereinafter provided,~~ otherwise provided in this Article, the amount of recoupment shall not be considered or treated as a rate or premium for any purpose. The Board of Governors shall adopt and implement a plan for compensation of agents of Facility members when recoupment surcharges are imposed; ~~such~~ that compensation shall not exceed the compensation or commission rate normally paid to the agent for the issuance or renewal of the automobile liability policy issued through the North Carolina Reinsurance Facility affected by ~~such surcharge; provided, however, that~~ the surcharge. However, the surcharge ~~provided for in this section~~ shall include an amount necessary to recover the amount of the assessment to member companies and the compensation paid by each member, ~~pursuant to~~ under this section, to agents."

Section 8.7. G.S. 58-37-35(g)(8) reads as rewritten:

"(8) To establish fair and reasonable procedures for the sharing among members of any loss on Facility business ~~which~~ that cannot be recouped ~~pursuant to~~ under ~~G.S. 58-37-40(f)~~ G.S. 58-37-40(e) ~~or which cannot be recouped or allocated under G.S. 58-37-75,~~ and other costs, charges, expenses, liabilities, income, property and other assets of the Facility and for assessing or distributing to members their appropriate shares. ~~Such~~ The shares may be based on the member's premiums for voluntary business for the appropriate category of motor vehicle insurance or by any other fair and reasonable method."

Section 8.8. G.S. 58-37-35(l) reads as rewritten:

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"(l) The classifications, rules, rates, rating plans and policy forms used on motor vehicle insurance policies reinsured by the Facility may be made by the Facility or by any licensed or statutory rating organization or bureau on its behalf and shall be filed with the Commissioner. The Board of Governors shall establish a separate subclassification within the Facility for 'clean ~~risks' as herein defined.~~ risks'. For the purpose of this Article, a 'clean risk' ~~shall be~~ is any owner of a nonfleet private passenger motor vehicle as defined in G.S. 58-40-10, if the owner, principal operator, and each licensed operator in the owner's household have two years' driving experience as licensed drivers and if none of the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of this Chapter during the three-year period immediately preceding either (i) the date of application for a motor vehicle insurance policy or (ii) the date of preparation of a renewal of a motor vehicle insurance policy. ~~Such~~ The filings may incorporate by reference any other material on file with the Commissioner. Rates shall be neither excessive, inadequate nor unfairly discriminatory. If the Commissioner finds, after a hearing, that a rate is either excessive, inadequate or unfairly discriminatory, ~~he~~ the Commissioner shall issue an order specifying in what respect it is deficient and stating when, within a reasonable period thereafter, ~~such rate shall be deemed~~ the rate is no longer effective. ~~Said~~ The order is subject to judicial review as set out in Article 2 of this Chapter. Pending judicial review of said order, the filed classification plan and the filed rates may be used, charged and collected in the same manner as set out in G.S. 58-40-45 of this Chapter. ~~Said~~ The order shall not affect any contract or policy made or issued ~~prior to~~ before the expiration of the period set forth in the order. All rates shall be on an actuarially sound basis and shall be calculated, insofar as is possible, to produce neither a profit nor a loss. However, the rates made by or on behalf of the Facility with respect to 'clean ~~risks', as defined above,~~ risks' shall not exceed the rates charged 'clean risks' who are not reinsured in the Facility. The difference between the actual rate charged and the actuarially sound and self-supporting rates for 'clean risks' reinsured in the Facility may be recouped in similar manner as assessments ~~pursuant to G.S. 58-37-40(f) or allocated pursuant to G.S. 58-37-75.~~ under G.S. 58-37-40(f). Rates shall not include any factor for underwriting profit on Facility business, but shall provide an allowance for contingencies. There shall be a strong presumption that the rates and premiums for the business of the Facility are neither unreasonable nor excessive."

Section 8.9. G.S. 58-37-75 is repealed.

PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.

Section 9.1. The phrase "certificate of authority" is deleted and replaced by the word "license" wherever it occurs in each of the following sections of the General Statutes:

G.S. 58-4-15. Revocation of certificate of authority.
G.S. 58-7-55. Exceptions to requirements of G.S. 58-7-50.
G.S. 58-7-70. Effects of redomestication.
G.S. 58-15-5. Definitions.

G.S. 58-16-35. Unauthorized Insurers Process Act.
G.S. 58-24-45. Organization.
G.S. 58-24-145. Injunction -- Liquidation -- Receivership of domestic society.
G.S. 58-28-15. Validity of acts or contracts of unauthorized company shall not impair obligation of contract as to the company; maintenance of suits; right to defend.
G.S. 58-28-45. Uniform Unauthorized Insurers Act.
G.S. 58-30-10. Definitions.
G.S. 58-30-55. Condition on release from delinquency proceedings.
G.S. 58-30-260. Conservation of property of foreign or alien insurers found in this State.
G.S. 58-33-132. Qualifications of instructors.
G.S. 58-41-55. Penalties; restitution.
G.S. 58-48-35. Powers and duties of the Association.
G.S. 58-48-45. Duties and powers of the Commissioner.

Section 9.2. G.S. 58-43-35 reads as rewritten:

"*§ 58-43-35. Punishment for issuing fire policies contrary to law.*

Any insurance company or agent who makes, issues, or delivers a policy of fire insurance in willful violation of the provisions of Articles 1 through 64 of this Chapter ~~which~~ that prohibit a domestic insurance company from issuing policies before obtaining ~~certificate and authority~~ a license from the ~~Commissioner of Insurance;~~ Commissioner; or ~~which~~ that prohibit the issuing of a fire insurance policy for more than the fair value of the property or for a longer term than seven years; or ~~which~~ that prohibit stipulations in insurance contracts restricting the jurisdiction of courts, or limiting the time within which an action may be brought to less than one year after the cause of action accrues or to less than six months after a nonsuit by the plaintiff, shall be guilty of a Class 3 misdemeanor and shall, upon conviction, be punished only by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000); but the policy shall be binding upon the company issuing it."

Section 9.3. G.S. 58-57-80 reads as rewritten:

"*§ 58-57-80. Penalties.*

In addition to any other penalty provided by law, any person, firm or corporation which willfully violates an order of the Commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of North Carolina a sum not to exceed one thousand dollars ($1,000) which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed five thousand dollars ($5,000). The Commissioner, in his discretion, may revoke or suspend the license ~~or certificate of authority~~ of the person, firm or corporation guilty of such willful violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in G.S. 58-57-75. Any creditor who requires credit life insurance or credit accident and health insurance, or both, in excess of the amounts set forth in G.S. 58-57-15 or who violates the provisions of G.S. 58-57-65 shall be guilty of a Class 3 misdemeanor, the penalty for which

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shall only be a fine of two thousand dollars ($2,000) for each such occurrence or violation."

PART X. RESERVED.

PART XI. EXAMINATION LAW -- CROSS REFERENCE CORRECTIONS.

Section 11.1. G.S. 58-3-155(c) reads as rewritten:

"(c) No licensed property or casualty insurer that has control of a broker may accept insurance from the broker in any transaction in which the broker, when the insurance is placed, is acting as such on behalf of the insured for any compensation, commission, or thing of value unless the broker, before the effective date of the coverage, delivers written notice to the prospective insured disclosing the relationship between the insurer and broker. The disclosure must be signed by the insured and must be retained in the insurer's underwriting file until the completion and release of the examination report under ~~G.S. 58-2-131, 58-2-132, and 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 for the period in which the coverage is in effect. If the insurance is placed through a subbroker that is not a controlled broker, the controlling insurer shall retain in its records a signed commitment from the subbroker that the subbroker is aware of the relationship between the insurer and the broker and that the subbroker has notified or will notify the insured."

Section 11.2. G.S. 58-20-30 reads as rewritten:

"*§ 58-20-30. Financial monitoring and evaluation of clubs.*

Each club shall be audited annually, at the Club's expense, by a certified public accounting firm. A copy of the audit report shall be furnished to each member, and to the Commissioner. The trustees shall obtain an appropriate actuarial evaluation of the loss and loss adjustment expenses reserves of the Club, including estimate of losses and loss adjustment expenses incurred but not reported. The provisions of G.S. 58-2-131 through ~~G.S. 58-2-133,~~ G.S. 58-2-134, G.S. 58-2-150, 58-2-160, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, and G.S. 58-6-5 apply to each Club and to persons that administer the Clubs."

Section 11.3. G.S. 58-21-40(c) reads as rewritten:

"(c) The Commissioner may, at times deemed appropriate, make or cause to be made an examination of each advisory organization; in which case the provisions of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-180, 58-2-185, 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the advisory organization or any member thereof to be in violation of this Article, the Commissioner may issue an order requiring the discontinuance of the violation."

Section 11.4. G.S. 58-23-26(c) reads as rewritten:

"(c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, 58-3-71, 58-3-75, 58-3-81, 58-3-105, 58-6-5, 58-7-21, 58-7-26, 58-7-30, 58-7-31, 58-7-50, 58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-175, 58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188,

58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200, and Articles 13, 19, and 34 of this Chapter. Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days after the end of the pool's fiscal year, subject to extension by the Commissioner."

Section 11.5. G.S. 58-26-10 reads as rewritten:

"§ *58-26-10. Financial statements and licenses required.*

Title insurance companies are subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-165, 58-2-180, and 58-6-5. The Commissioner may require title insurance companies to separately report their experience in insuring titles and in insuring closing services. The Commissioner shall annually license such companies and their agents."

Section 11.6. G.S. 58-34-2(m) reads as rewritten:

"(m) The acts of an MGA are considered to be the acts of the insurer on whose behalf it is acting. An MGA may be examined by the Commissioner under ~~G.S. 58-2-131, 58-2-132, or 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 as if it were an insurer."

Section 11.7. G.S. 58-47-100 reads as rewritten:

"§ *58-47-100. Examinations.*

~~G.S. 58-2-131, 58-2-132, and 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 apply to groups."

Section 11.8. G.S. 58-47-195 reads as rewritten:

"§ *58-47-195. Examinations.*

TPAs and service companies may be examined under ~~G.S. 58-2-131, 58-2-132, and 58-2-133.~~ G.S. 58-2-131 through G.S. 58-2-134."

Section 11.9. G.S. 58-64-55 reads as rewritten:

"§ *58-64-55. Examinations; financial statements.*

The Commissioner or the Commissioner's designee may, in the Commissioner's discretion, visit a facility offering continuing care in this State to examine its books and records. Expenses incurred by the Commissioner in conducting examinations under this section shall be paid by the facility examined. The provisions of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, and 58-6-5 apply to this Article and are hereby incorporated by reference."

Section 11.10. G.S. 58-67-100(a) reads as rewritten:

"(a) The Commissioner may make an examination of the affairs of any health maintenance organization and the contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State but not less frequently than once every three years. Examinations shall otherwise be conducted under ~~G.S. 58-2-131, 58-2-132, and 58-2-133.~~ G.S. 58-2-131 through G.S. 58-2-134."

Section 11.11. G.S. 143-215.94I(g) reads as rewritten:

"(g) Each pool shall be audited annually at the expense of the pool by a certified public accounting firm, with a copy of the report available to the governing body or chief executive officer of each member of the pool and to the Commissioner. The board of trustees of the pool shall obtain an appropriate actuarial evaluation of the loss and loss adjustment expense reserves of the pool, including an estimate of losses and loss adjustment expenses incurred but not reported. The provisions of G.S. 58-2-131, 58-2-

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132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, and 58-6-5 apply to each pool and to persons that administer the pools. Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days after the end of the pool's fiscal year. All financial statements required by this section shall be prepared in accordance with generally accepted statutory accounting principles."

PART XII. MOTOR CLUBS.

Section 12.1. G.S. 58-69-1, 58-77-1, and 58-77-5 are repealed.

Section 12.2. Article 69 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-69-2. Definitions.*

As used in this Article:

(1) 'Branch or district office' means any physical location, other than a motor club's home office, where the motor club or its representatives conduct any type of business authorized under this Article.

(2) 'Motor club' means any person, whether or not residing, domiciled, or chartered in this State, that, in consideration of dues, assessments, or periodic payments of money, promises its members to assist them in matters relating to the ownership, operation, use, or maintenance of motor vehicles by rendering three or more of the following services:

a. Automobile theft reward service. -- A reward payable to any person, law enforcement agency, or officer for information leading to the recovery of a member's stolen vehicle and to the apprehension and conviction of the person or persons unlawfully taking the vehicle.

b. Bail or cash appearance bond service. -- The furnishing of cash or a surety bond for a member accused of a violation of the motor vehicle law, or of any law of this State by reason of an automobile accident to secure the member's release and subsequent appearance in court.

c. Emergency road service. -- Roadside adjustment of a motor vehicle so that the vehicle may be operated under its own power.

d. Legal service. -- Providing for reimbursement to a member for attorneys' fees if criminal proceedings are instituted against the member as a result of the operation of a motor vehicle.

e. Map service. -- The furnishing of road maps to members without cost.

f. Personal travel and accident insurance service. -- Making available to members a personal travel and accident insurance policy issued by a duly licensed insurance company in this State.

g. Touring service. -- The furnishing of touring information to members without cost.

h. Towing service. -- Furnishing means to move a motor vehicle from one place to another under power other than its own.

(3) 'Licensee' means a motor club to which a license has been issued under this Article."

Section 12.3. Article 69 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-69-50. Authority for qualified surety companies to guarantee certain arrest bond certificates.*

(a) Any domestic or foreign surety company that is authorized to do business in this State may become a surety, by filing with the Department an undertaking to become a surety, in an amount not to exceed one thousand five hundred dollars ($1,500) with respect to each guaranteed arrest bond certificate issued by a motor club.

(b) The undertaking shall be in a form to be prescribed by the Department and shall state:

(1) The name and address of the motor club or clubs with respect to which the surety company undertakes to guarantee the arrest bond certificates.

(2) The unqualified obligation of the surety company to pay the fine or forfeiture, in an amount not to exceed one thousand five hundred dollars ($1,500) of any person who, after posting a guaranteed arrest bond certificate which the surety has undertaken to guarantee, fails to make the appearance for which the guaranteed arrest bond certificate was posted."

Section 12.4. Article 69 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-69-55. Guaranteed arrest bond certificates accepted.*

(a) Any guaranteed arrest bond certificate guaranteed by a surety company under G.S. 58-69-50 shall be accepted in lieu of cash bail or other bond in an amount not to exceed one thousand five hundred dollars ($1,500) as a bail bond, when signed by the person whose signature appears on the certificate, to guarantee the appearance of that person in any court in this State at the time set by the court when the person is arrested for the violation of any motor vehicle law of this State or any motor vehicle ordinance of any municipality of this State. The guaranteed arrest bond certificate shall not apply to, and shall not be accepted in lieu of, cash bail or bond when the person has been arrested for any impaired driving offense or for any felony.

(b) A guaranteed arrest bond certificate that is posted as a bail bond in any court shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in criminal cases as provided by law."

PART XIII. WORKERS' COMPENSATION SELF-INSURANCE.

Section 13.1. G.S. 58-47-65(f)(3) reads as rewritten:

"(3) An individual application, under G.S. 58-47-125, of each member applying for coverage in the proposed group on the inception date of the proposed group, with a current GAAP financial statement of ~~the~~ each member. The financial statements are confidential, but the Commissioner may use them in any judicial or administrative proceeding."

Section 13.2. G.S. 58-47-85(2)c. reads as rewritten:

"c. Adopt a policy whereby every member:

1. Pays a deposit to the group of twenty-five percent (25%) of the member's estimated annual earned premium, or another amount that the Commissioner prescribes based on, but not limited to, the financial condition of the group and the risk retained by the group; or
2. Once every year files with the group the member's most recent year-end balance sheet, which, at a minimum, is compiled by an independent certified public accountant. The balance sheet shall demonstrate that the member's financial position does not show a deficit equity and is appropriate for membership in the group. At the request of the Commissioner, the group shall make these filings available for review. These filings shall be kept confidential; provided that the Commissioner may use that information in any judicial or administrative proceeding."

Section 13.3. G.S. 58-47-120(f)(11) reads as rewritten:

"(11) Qualifications for group membership, including underwriting guidelines and procedures to identify ~~members~~ any member that ~~are~~ is in a hazardous financial ~~conditions.~~ condition."

Section 13.4. Reserved.

Section 13.5. G.S. 97-165(2) reads as rewritten:

"(2) 'Certified audit' means an audit on which a certified public accountant expresses his or her professional opinion that the accompanying statements fairly present the financial position of the self-insurer, in conformity with generally accepted accounting ~~principles as considered necessary by the auditor under the circumstances.~~ principles."

Section 13.6. G.S. 97-170(c) reads as rewritten:

"(c) Only an applicant ~~whose employee base is actuarially sufficient in numbers and provides an actuarially appropriate spreading of risk and~~ whose total fixed assets amount to five hundred thousand dollars ($500,000) or more may apply for a license. In judging the applicant's financial strength and liquidity relative to its ability to comply with the Act, the Commissioner shall consider the applicant's:

(1) Organizational structure and management;
(2) Financial strength;
(3) Source and reliability of financial information;
(4) Risks to be retained;
(5) Workers' compensation loss history;
(6) Number of employees;
(7) Claims administration;
(8) Excess insurance; and
(9) Access to excess ~~insurance or reinsurance.~~ insurance."

Section 13.7. G.S. 97-170(d)(4) is repealed.

Section 13.8. G.S. 97-180(b) reads as rewritten:

"(b) Every self-insurer shall submit within 120 days after the end of its fiscal year a certification from a qualified actuary setting forth the actuary's opinion relating to loss and loss adjustment expense reserves for workers'

compensation obligations for ~~each state in which the self-insurer does business.~~ North Carolina. The certification shall show liabilities, excess insurance carrier and other qualifying credits, if any, and net retained workers' compensation liabilities. The qualified actuary shall present an annual report to the self-insurer on the items within the scope of and supporting the certification, within 90 days after the close of the self-insurer's fiscal year. Upon request, the report shall be submitted to the Commissioner."

Section 13.9. G.S. 97-180(d) reads as rewritten:

"(d) ~~Every~~ Upon the request of the Commissioner, every self-insurer shall submit ~~within 120 days after the end of its fiscal year~~ a report of its annual payroll information. The report shall summarize payroll, by annual amount paid, and the number of employees, by classification, using the rules, classifications, and rates in the most recently approved Workers' Compensation and Employers' Liability Insurance Manual governing the audits of payrolls and the adjustments of premiums. Every self-insurer shall maintain true and accurate payroll records. These payroll records shall be maintained to allow for verification of the completeness and accuracy of the annual payroll report."

PART XIV. EFFECT OF HEADINGS.

Section 14. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

PART XV. EFFECTIVE DATE.

Section 15. This act is effective when it becomes law, except for Part III of this act, which becomes effective September 1, 1999.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:03 p.m. on the 4th day of June, 1999.

S.B. 525 **SESSION LAW 1999-133**

AN ACT TO ALLOW NON-UNITED STATES CITIZENS TO SERVE AS PERSONAL REPRESENTATIVES IN THE ADMINISTRATION OF ESTATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-4-2 reads as rewritten:

"*§ 28A-4-2. Persons disqualified to serve as personal representative.*

No person is qualified to serve as a personal representative who:

(1) Is under 18 years of age;

(2) Has been adjudged incompetent in a formal proceeding and remains under such disability;

(3) Is a convicted felon, under the laws either of the United States or of any state or territory of the United States, or of the District of Columbia and whose citizenship has not been restored;

(4) Is a nonresident of this State who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate, and caused such appointment to be filed with the court; or who is a resident of this State who has, subsequent to appointment as a personal representative, moved from this State without appointing such process agent;

(5) Is a corporation not authorized to act as a personal representative in this State;

~~(6) Is an alien disqualified by law;~~

(7) Has lost his rights as provided by Chapter 31A;

(8) Is illiterate;

(9) Is a person whom the clerk of superior court finds otherwise unsuitable; or

(10) Is a person who has renounced either expressly or by implication as provided in G.S. 28A-5-1 and 28A-5-2."

Section 2. This act becomes effective January 1, 2000, and applies to estates of decedents dying on or after that date.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:04 p.m. on the 4th day of June, 1999.

H.B. 1119 **SESSION LAW 1999-134**

AN ACT TO ENSURE THAT HEALTH BENEFIT PLANS IN NORTH CAROLINA PROVIDE COVERAGE FOR ANESTHESIA AND HOSPITAL CHARGES IN CERTAIN CASES INVOLVING YOUNG CHILDREN, PERSONS WITH SERIOUS MENTAL OR PHYSICAL CONDITIONS, AND PERSONS WITH SIGNIFICANT BEHAVIORAL PROBLEMS, WHERE THE AGE OR CONDITION OR PROBLEM REQUIRES HOSPITALIZATION OR GENERAL ANESTHESIA IN ORDER TO SAFELY AND EFFECTIVELY PERFORM DENTAL PROCEDURES ON THE PATIENT INVOLVED.

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 2000, Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-3-122. Anesthesia and hospital charges necessary for safe and effective administration of dental procedures for young children, persons with serious mental or physical conditions, and persons with significant behavioral problems; coverage in health benefit plans.*

(a) All health benefit plans shall provide coverage for payment of anesthesia and hospital or facility charges for services performed in a hospital or ambulatory surgical facility in connection with dental procedures for children below the age of nine years, persons with serious mental or physical conditions, and persons with significant behavioral problems, where the provider treating the patient involved certifies that, because of the patient's age or condition or problem, hospitalization or general anesthesia is required in order to safely and effectively perform the procedures. The same

deductibles, coinsurance, network requirements, medical necessity provisions, and other limitations as apply to physical illness benefits under the health benefit plan shall apply to coverage for anesthesia and hospital or facility charges required to be covered under this section.

(b) As used in this section, the term:

(1) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina Department of Health and Human Services or the United States Department of Health and Human Services, or any successor agency, or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

a. Accident.
b. Credit.
c. Disability income.
d. Long-term care or nursing home care.
e. Medicare supplement.
f. Specified disease.
g. Dental or vision.
h. Coverage issued as a supplement to liability insurance.
i. Workers' compensation.
j. Medical payments under automobile or homeowners.
k. Hospital income or indemnity.
l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.

(2) 'Insurer' includes an insurance company subject to this Chapter, a service corporation organized under Article 65 of this Chapter, a health maintenance organization organized under Article 67 of this Chapter, or a multiple employer welfare arrangement subject to Article 49 of this Chapter."

Section 2. This act is effective when it becomes law and applies to health benefit plans that are delivered, issued for delivery, or renewed on and after January 1, 2000. For purposes of this act, renewal of a health benefit policy, contract, or plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:07 p.m. on the 4th day of June, 1999.

H.B. 944 SESSION LAW 1999-135

AN ACT TO EXTEND THE MORATORIUM ON APPROVAL OF ADDITIONAL ADULT CARE HOME BEDS TO SEPTEMBER 30, 2000.

The General Assembly of North Carolina enacts:

Section 1. Section 11.69(b) of S.L. 1997-443, as amended by Section 12.16C(a) of S.L. 1998-212, reads as rewritten:

"(b) Effective until ~~August 26, 1999,~~ September 30, 2000, the Department of Health and Human Services shall not approve the addition of any adult care home beds for any type home or facility in the State, except as follows:

(1) Plans submitted for approval prior to May 18, 1997, may continue to be processed for approval;

(2) Plans submitted for approval subsequent to May 18, 1997, may be processed for approval if the individual or organization submitting the plan demonstrates to the Department that on or before August 25, 1997, the individual or organization purchased real property, entered into a contract to purchase or obtain an option to purchase real property, entered into a binding real property lease arrangement, or has otherwise made a binding financial commitment for the purpose of establishing or expanding an adult care home facility. An owner of real property who entered into a contract prior to August 25, 1997, for the sale of an existing building together with land zoned for the development of not more than 50 adult care home beds with a proposed purchaser who failed to consummate the transaction may, after August 25, 1997, sell the property to another purchaser and the Department may process and approve plans submitted by the purchaser for the development of not more than 50 adult care home beds. It shall be the responsibility of the applicant to establish, to the satisfaction of the Department, that any of these conditions have been met;

(3) Adult care home beds in facilities for the developmentally disabled with six beds or less which are or would be licensed under G.S. 131D or G.S. 122C may continue to be approved;

(4) If the Department determines that the vacancy rate of available adult care home beds in a county is fifteen percent (15%) or less of the total number of available beds in the county as of August 26, 1997, and no new beds have been approved or licensed in the county or plans submitted for approval in accordance with subdivision (1) or (2) of this section which would raise the vacancy rate above fifteen percent (15%) in the county, then the Department may accept and approve the addition of beds in that county; or

(5) If a county board of commissioners determines that a substantial need exists for the addition of adult care home beds in that county, the board of commissioners may request that a specified number of additional beds be licensed for development in their county. In

making their determination, the board of commissioners shall give consideration to meeting the needs of Special Assistance clients. The Department may approve licensure of the additional beds from the first facility that files for licensure and subsequently meets the licensure requirements."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:10 p.m. on the 4th day of June, 1999.

S.B. 620 **SESSION LAW 1999-136**

AN ACT TO ALLOW PROFESSIONAL CORPORATIONS TO BE FORMED BETWEEN ANY PHYSICIAN AND CERTAIN NURSING SPECIALISTS, SOCIAL WORKERS, AND COUNSELORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55B-14(c)(4) reads as rewritten:

"(4) A ~~physician practicing psychiatry,~~ physician, or a licensed psychologist, or both, and a certified clinical specialist in psychiatric and mental health nursing, a certified clinical social worker, a licensed professional counselor, or each of them, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:11 p.m. on the 4th day of June, 1999.

H.B. 226 **SESSION LAW 1999-137**

AN ACT TO REQUIRE THAT A NOTICE OF FORECLOSURE HEARING INCLUDE ADDITIONAL INFORMATION, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-21.16(c) reads as rewritten:

"(c) Notice shall be in writing and shall state in a manner reasonably calculated to make the party entitled to notice aware of the following:

(1) The particular real estate security interest being foreclosed, with such a description as is necessary to identify the real property, including the date, original amount, original holder, and book and page of the security instrument.

(2) The name and address of the holder of the security instrument at the time that the notice of hearing is filed.

(3) The nature of the default claimed.

(4) The fact, if such be the case, that the secured creditor has accelerated the maturity of the debt.

(5) Any right of the debtor to pay the indebtedness or cure the default if such is permitted.

(5a) The holder has confirmed in writing to the person giving the notice, or if the holder is giving the notice, the holder shall confirm in the notice, that, within 30 days of the date of the notice, the debtor was sent by first-class mail at the debtor's last known address a written statement of the amount of principal and interest that the holder claims in good faith is owed as of the date of the written statement, a daily interest charge based on the contract rate as of the date of the statement, and the amount of other expenses the holder contends it is owed as of the date of the statement.

(6) Repealed by Session Laws 1977, c. 359, s. 7.

(7) The right of the debtor (or other party served) to appear before the clerk of court at a time and on a date specified, at which appearance he shall be afforded the opportunity to show cause as to why the foreclosure should not be allowed to be held. The notice shall contain a statement that if the debtor does not intend to contest the creditor's allegations of default, the debtor does not have to appear at the hearing and that his failure to attend the hearing will not affect his right to pay the indebtedness and thereby prevent the proposed sale, or to attend the actual sale, should he elect to do so.

(8) That if the foreclosure sale is consummated, the purchaser will be entitled to possession of the real estate as of the date of delivery of his deed, and that the debtor, if still in possession, can then be evicted.

(8a) The name, address, and telephone number of the trustee or mortgagee.

(9) That the debtor should keep the trustee or mortgagee notified in writing of his address so that he can be mailed copies of the notice of foreclosure setting forth the terms under which the sale will be held, and notice of any postponements or resales.

(10) If the notice of hearing is intended to serve also as a notice of sale, such additional information as is set forth in G.S. 45-21.16A.

(11) That the hearing may be held on a date later than that stated in the notice and that the party will be notified of any change in the hearing date."

Section 2. G.S. 45-21.16 is amended by adding a new subsection to read:

"(c1) The person giving the notice of hearing, if other than the holder, may rely on the written confirmation received from the holder under subdivision (c)(5a) of this section and is not liable for inaccuracies in the written confirmation. Any dispute concerning the mailing or accuracy of the written statement described in subdivision (c)(5a) of this section shall not be considered in a hearing under this section."

Section 3. This act becomes effective January 1, 2000, and applies to foreclosure proceedings filed on or after that date.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:14 p.m. on the 4th day of June, 1999.

S.B. 775 **SESSION LAW 1999-138**

AN ACT TO AUTHORIZE EXPRESSLY THE APPOINTMENT OF MULTIPLE PROXIES BY ELECTRONIC OR TELEPHONIC COMMUNICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55-7-22(b) reads as rewritten:

"(b) A shareholder may appoint ~~a proxy~~ one or more proxies to vote or otherwise act for him by signing an appointment form, either personally or by his attorney-in-fact. A ~~telegram, telex, facsimile or other form of wire or wireless communication appearing to have been transmitted by a shareholder, or a photocopy~~ photocopy, telegram, cablegram, facsimile transmission, or equivalent reproduction of a writing appointing one or more proxies, shall be deemed a valid appointment form within the meaning of this section. In addition, if and to the extent permitted by the corporation, a shareholder may appoint one or more proxies (i) by an electronic mail message or other form of electronic, wire, or wireless communication that provides a written statement appearing to have been sent by the shareholder, or (ii) in the case of a public corporation, by any kind of electronic or telephonic transmission, even if not accompanied by written communication, under circumstances or together with information from which the corporation can reasonably assume that the appointment was made or authorized by the shareholder."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:15 p.m. on the 4th day of June, 1999.

S.B. 774 **SESSION LAW 1999-139**

AN ACT TO AUTHORIZE THE APPOINTMENT OF MULTIPLE PROXIES OF MEMBERS OF NONPROFIT CORPORATIONS BY ELECTRONIC OR TELEPHONIC COMMUNICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-7-24(a) reads as rewritten:

"(a) Unless the articles of incorporation or bylaws prohibit or limit proxy voting, a member may vote in person or by proxy. A member may appoint ~~a proxy~~ one or more proxies to vote or otherwise act for him by signing an appointment form, either personally or by his attorney-in-fact. A ~~telegram,~~

~~telex, facsimile, or other form of wire or wireless communication appearing to have been transmitted by a member, or a photocopy~~ photocopy, telegram, cablegram, facsimile transmission, or equivalent reproduction of a writing appointing one or more proxies, shall be deemed a valid appointment form within the meaning of this section. In addition, if and to the extent permitted by the nonprofit corporation, a member may appoint one or more proxies (i) by an electronic mail message or other form of electronic, wire, or wireless communication that provides a written statement appearing to have been sent by the member, or (ii) by any kind of electronic or telephonic transmission, even if not accompanied by written communication, under circumstances or together with information from which the nonprofit corporation can reasonably assume that the appointment was made or authorized by the member."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:17 p.m. on the 4th day of June, 1999.

H.B. 105 **SESSION LAW 1999-140**

AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that the Camp Butner reservation and the Community of Butner, as regulated by Article 6 of Chapter 122C of the General Statutes, is a unique State resource that is and should continue to be administered by the State of North Carolina through the Office of the Secretary of Health and Human Services. The General Assembly finds that there is a resident population in the Community of Butner that, because of the unique relationship between the State of North Carolina and cities and counties, as provided in G.S. 122C-410, does not have elected representation with respect to public services, such as police and fire protection, and the provision of water and sewers, that would normally be under the control of an elected city council or board of county commissioners. The General Assembly finds that the citizens of the Camp Butner reservation should be permitted to elect a representative body to act as the voice of the affected people of Butner in dealing with the State of North Carolina through the Department of Health and Human Services with regard to the provision of public services and planning for the future of the Camp Butner reservation.

Section 2. Part 1A of Article 6 of Chapter 122C of the General Statutes is repealed.

Section 3. Article 6 of Chapter 122C of the General Statutes is amended by adding a Part to read:

"Part 1B. Butner Advisory Council.

"*§ 122C-413. Butner Advisory Council; created.*

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the territorial jurisdiction

established by G.S. 122C-408(a), at a nonpartisan election administered by the Granville County Board of Elections to be set after preclearance from the federal Department of Justice.

(b) Members of the Butner Advisory Council shall be elected at large, and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General Statutes. In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a resident of the territorial jurisdiction established by G.S. 122C-408(a).

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy with the Granville County Board of Elections. Absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302.

(d) The seven candidates receiving the highest numbers of votes shall be elected for the following terms:

(1) If the election is held in an even-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of two years.

(2) If the election is held in an odd-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years.

Biennially thereafter, in each even-numbered year, the members whose terms expire shall be elected to four-year terms.

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one-year term, may be reelected, and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city.

"*§ 122C-413.1. Butner Advisory Council; powers.*

(a) The Butner Advisory Council may advise the Secretary of Health and Human Services, through resolutions adopted by the council, on the operations of the Camp Butner reservation and the concerns of the residents of the Camp Butner reservation in connection with the exercise of the powers granted to the Secretary pursuant to G.S. 122C-403. A resolution adopted pursuant to this subsection shall be delivered to the Office of the Secretary of Health and Human Services who shall act on the resolution in accordance with G.S. 122C-403(8a).

(b) When a vacancy occurs in the position of Butner Town Manager, the Butner Advisory Council shall submit the names of three candidates for the position to the Secretary of Health and Human Services. The candidates shall meet the qualifications set by the State Personnel Commission for the position. The Butner Town Manager shall be selected by the Secretary of Health and Human Services pursuant to G.S. 122C-403(9a)."

Section 4. G.S. 122C-403 reads as rewritten:

"§ *122C-403. Secretary's authority over Camp Butner reservation.*

The Secretary shall administer the Camp Butner reservation. In performing this duty, the Secretary has the powers listed below. In exercising these powers the Secretary has the same authority and is subject to the same restrictions that the governing body of a city would have and would be subject to if the reservation was a city, unless this section provides to the contrary. The Secretary may:

(1) Regulate airports on the reservation in accordance with the powers granted in Article 4 of Chapter 63 of the General Statutes.

(2) Take actions in accordance with the general police power granted in Article 8 of Chapter 160A of the General Statutes.

(3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, ~~3A, 3B,~~ 3C, 5, 6, and 7, of Chapter 160A of the General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required to notify landowners of zoning classification actions under G.S. 160A-384, and the protest petition requirements in G.S. 160A-385, and 160A-386 do not apply. The Secretary may ~~appoint~~ designate the Butner ~~Planning~~ Advisory Council to act like a Board of Adjustment to make recommendations to the Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, the Butner ~~Planning~~ Advisory Council shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388.

(4) Establish one or more planning agencies in accordance with the power granted in G.S. 160A-361 or designate the Butner ~~Planning~~ Advisory Council as the planning agency for the reservation.

(5) Regulate streets, traffic, and parking on the reservation in accordance with the powers granted in Article 15 of Chapter 160A of the General Statutes.

(6) Control erosion and sedimentation on the reservation in accordance with the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of the General Statutes.

(7) Contract with and undertake agreements with units of local government in accordance with the powers granted in G.S. 160A-413 and Article 20, Part 1, of Chapter 160A of the General Statutes.

(8) Regulate floodways on the reservation in accordance with the powers granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the General Statutes.

(8a) Act on resolutions adopted by the council pursuant to G.S. 122C-413.1(a). If the Secretary approves the resolution, it shall be carried out by the Butner Town Manager. The Secretary shall have no more than 30 days during which to disapprove any recommendation of the council contained in the resolution. Any

disapproval shall be in writing, stating the reasons for the disapproval, and shall be returned to the council. If the Secretary does not disapprove a recommendation of the council within the prescribed period, the recommendation shall be deemed approved by the Secretary and shall be carried out by the Butner Town Manager.

(9) Assign duties given by the statutes listed in the preceding subdivisions to a local official to the Butner Town Manager. ~~Manager who shall be hired upon the recommendation of the Butner Planning Council and shall be assigned to the Office of the Secretary of Health and Human Services. The Butner Planning Council shall submit the names of three candidates for the position of Butner Town Manager to the Secretary of Health and Human Services and the Secretary shall select one of the candidates. The candidates shall meet the qualifications set by the State Personnel Commission for the position. The Butner Town Manager shall serve at the pleasure of the Secretary. The Secretary shall, through the Butner Town Manager, provide all necessary administrative assistance to the council in carrying out its duties.~~

(9a) Select the Butner Town Manager from the candidates submitted by the council pursuant to G.S. 122C-413.1(b). The Butner Town Manager shall serve at the pleasure of the Secretary. The Secretary shall, through the Butner Town Manager, provide all necessary administrative assistance to the council in carrying out its duties.

(10) Adopt rules to carry out the purposes of this Article."

Section 5. G.S. 122C-405 reads as rewritten:

"§ *122C-405. Procedure applicable to rules.*

Rules adopted by the Secretary under this Article shall be adopted in accordance with the procedures for adopting a city ordinance on the same subject, shall be subject to review in the manner provided for a city ordinance adopted on the same subject, and shall be enforceable in accordance with the procedures for enforcing a city ordinance on the same subject. Violation of a rule adopted under this Article is punishable as provided in G.S. 122C-406.

Rules adopted under this Article may apply to part or all of the Camp Butner reservation. If a public hearing is required before the adoption of a rule, the ~~Butner Planning Council~~ Butner Advisory Council shall conduct the hearing."

Section 6. The Study Commission on the Transfer of Butner Public Safety, created by Section 20.5 of Chapter 324 of the 1995 Session Laws and as amended by Section 7 of Chapter 667 of the 1995 Session Laws, is continued through December 31, 2001. The funds appropriated for the operation of the Commission by that section, and remaining unexpended, shall not revert and shall remain available to the Commission to continue its work. The Commission shall provide legislative oversight to ensure compliance with the provisions of this act.

Section 7. Sections 1, 3, 6, and 7 of this act are effective when they become law. Sections 2, 4, and 5 of this act become effective when a majority of the members of the Butner Advisory Council created pursuant to G.S. 122C-413 as enacted by this act have been elected and qualified.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:20 p.m. on the 4th day of June, 1999.

S.B. 426 **SESSION LAW 1999-141**

AN ACT TO LIMIT THE RIGHT OF SHAREHOLDERS OF SECURITIES DESIGNATED AS NATIONAL MARKET SYSTEM SECURITIES TO DISSENT FROM, OR OBTAIN PAYMENT AS A RESULT OF, CERTAIN CORPORATE ACTIONS AND TO MAKE OTHER CLARIFYING CHANGES TO THE LAW GOVERNING DISSENTERS' RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55-13-02 reads as rewritten:

"*§ 55-13-02. Right to dissent.*

(a) In addition to any rights granted under Article 9, a shareholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:

(1) Consummation of a plan of merger to which the corporation (other than a parent corporation in a merger whose shares are not affected under G.S. 55-11-04) is a party unless (i) approval by the shareholders of that corporation is not required under G.S. 55-11-03(g) or (ii) such shares are then redeemable by the corporation at a price not greater than the cash to be received in exchange for such shares;

(2) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, unless such shares are then redeemable by the corporation at a price not greater than the cash to be received in exchange for such shares;

(3) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than as permitted by G.S. 55-12-01, including a sale in dissolution, but not including a sale pursuant to court order or a sale pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed in cash to the shareholders within one year after the date of sale;

(4) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it (i) alters or abolishes a preferential right of the shares; (ii) creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares; (iii) alters or abolishes a preemptive

right of the holder of the shares to acquire shares or other securities; (iv) excludes or limits the right of the shares to vote on any matter, or to cumulate votes; (v) reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under G.S. 55-6-04; or (vi) changes the corporation into a nonprofit corporation or cooperative organization; or

(5) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(b) A shareholder entitled to dissent and obtain payment for his shares under this Article may not challenge the corporate action creating his entitlement, including without limitation a merger solely or partly in exchange for cash or other property, unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

(c) Notwithstanding any other provision of this Article, there shall be no right ~~of dissent~~ of shareholders to dissent from, or obtain payment of the fair value of the shares in the event of, the corporate actions set forth in subdivisions (1), (2), or (3) of subsection (a) of this section ~~in favor of holders of shares of~~ if the affected shares are any class or series which, at the record date fixed to determine the shareholders entitled to receive notice of and to vote at the meeting at which the plan of merger or share exchange or the sale or exchange of property is to be acted on, were (i) listed on a national securities exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., or (ii) held by at least 2,000 record ~~shareholders, unless in either case:~~ shareholders. This subsection does not apply in cases in which either:

(1) The articles of ~~incorporation~~ incorporation, bylaws, or a resolution of the board of directors of the corporation issuing the shares provide otherwise; or

(2) In the case of a plan of merger or share exchange, the holders of the class or series are required under the plan of merger or share exchange to accept for the shares anything except:

a. Cash;

b. Shares, or shares and cash in lieu of fractional shares of the surviving or acquiring corporation, or of any other corporation which, at the record date fixed to determine the shareholders entitled to receive notice of and vote at the meeting at which the plan of merger or share exchange is to be acted on, were either listed subject to notice of issuance on a national securities exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., or held ~~of record~~ by at least 2,000 record shareholders; or

c. A combination of cash and shares as set forth in sub-subdivisions a. and b. of this subdivision."

Section 2. This act becomes effective October 1, 1999, and applies to corporate actions to which shareholders may dissent occurring on or after that date.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:22 p.m. on the 4th day of June, 1999.

H.B. 301 **SESSION LAW 1999-142**

AN ACT TO AMEND THE EDUCATIONAL REQUIREMENTS FOR AUCTIONEERS, APPRENTICE AUCTIONEERS, AND PRINCIPALS IN AN AUCTION FIRM, TO ALLOW THE AUCTIONEERS COMMISSION TO ASSESS A CIVIL PENALTY IN CERTAIN CIRCUMSTANCES, TO INCREASE FEES, AND TO AUTHORIZE CRIMINAL HISTORY CHECKS FOR APPLICANTS FOR AN AUCTIONEER'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85B-3 reads as rewritten:

"*§ 85B-3. Auctioneers Commission.*

(a) There shall be a five-member North Carolina Auctioneers Commission having the powers and responsibilities set out in this Chapter. The Governor shall appoint the members of the Commission, at least three of whom, and their successors, shall be from nominations submitted by the Auctioneers Association of North Carolina. The Auctioneers Association shall submit, within 45 days of when the vacancy occurs, at least three names for each position for which it is entitled to make a nomination. Of the initial five members of the Commission one shall be appointed for a one-year term, two shall be appointed for two-year terms and two for three-year terms; thereafter, each new member shall be appointed for a term of three years. Any vacancy shall be filled for the remainder of the unexpired term only. Each member shall continue in office until his successor is appointed and qualified. No member shall serve more than two complete consecutive terms.

(b) At least three members of the Commission shall be experienced auctioneers who are licensed under this Chapter. One member shall be a person who shall represent the public at large and shall not be licensed under this Chapter.

(c) The Commission shall employ an executive director and other employees as needed to carry out the duties of this Chapter. All employees shall serve at the pleasure of the Commission.

(d) Any action that may be taken by the Commission may be taken by vote of any three of its members.

(e) The members of the Commission shall elect from among themselves a chairman to serve a one-year term. No person shall serve more than two consecutive terms as chairman.

~~(f) The Commission shall receive and act upon applications for auctioneer licenses, issue and suspend and revoke licenses, adopt rules and~~

~~regulations for auctioneers and auctions that are consistent with the provisions of this Chapter and the General Statutes, and issue declaratory rulings. The Commission may make and enforce reasonable rules and take other actions necessary to administer and enforce the provisions of this Chapter.~~

(g) Members of the Commission shall receive the compensation set for members of occupational licensing boards by G.S. 93B-5."

Section 2. Chapter 85B of the General Statutes is amended by adding a new section to read:

"*§ 85B-3.1. Auctioneers Commission; powers and duties.*

(a) The Commission shall have the following powers and duties:

(1) To receive and act upon applications for licenses.

(2) To issue licenses.

(3) To deny, suspend, and revoke licenses pursuant to G.S. 85B-8.

(3) To adopt rules for auctioneers and auctions that are consistent with the provisions of this Chapter and the General Statutes.

(4) To issue declaratory rulings.

(b) The Commission may assess a civil penalty not in excess of two thousand dollars ($2,000) for acts prohibited in G.S. 85B-8. All civil penalties collected by the Commission shall be remitted to the school fund of the county in which the violation occurred. Before imposing and assessing a civil penalty and fixing the amount thereof, the Commission shall, as a part of its deliberations, take into consideration the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist."

Section 3. Chapter 85B of the General Statutes is amended by adding a new section to read:

"*§ 85B-3.2. Criminal history record checks of applicants for licensure.*

(a) Definitions. -- The following definitions shall apply in this section:

(1) Applicant -- An applicant for initial licensure as an auctioneer.

(2) Criminal history -- A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's fitness to be licensed as an auctioneer.

(b) The Commission shall ensure that the State criminal history of an applicant is checked. National criminal history checks are authorized for an applicant who has not resided in the State of North Carolina during the past five years. The Commission shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant to be checked consenting to the check of the criminal history and to the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice.

(c) All releases of criminal history information to the Commission shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Division of

Criminal Information. All of the information the Commission receives through the checking of the criminal history is for the exclusive use of the Commission and shall be kept confidential.

(d) If the applicant's verified criminal history record check reveals one or more convictions of a crime that is punishable as a felony offense, or the conviction of any crime involving fraud or moral turpitude, the Commission may deny the applicant's license. However, the conviction shall not automatically prohibit licensure, and the following factors shall be considered by the Commission in determining whether licensure shall be denied:

(1) The level and seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the crime.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the applicant and the applicant's duties as an auctioneer.
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.
(7) The subsequent commission by the person of a crime.

(e) The Commission may deny licensure to an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories.

(f) The Commission shall notify the applicant of the applicant's right to review the criminal history information, the procedure for challenging the accuracy of the criminal history, and the applicant's right to contest the Commission's denial of licensure."

Section 4. G.S. 85B-4 reads as rewritten:

"*§ 85B-4. Licenses required.*

(a) No person who is not exempt under G.S. 85B-2, shall sell, or offer to sell, goods or real estate at auction in this State or perform any act for which an auction firm license is required unless the person holds a currently valid license issued under this Chapter.

(b) No person shall be licensed as an apprentice auctioneer, auctioneer, or receive an auction firm license if the person:

(1) Is under 18 years of ~~age;~~ age.
(1a) Is not a high school graduate or the equivalent. However, a person licensed under this Chapter prior to July 1, 1999, does not need to meet this requirement.
(2) Repealed by Session Laws 1983, c. 751, s. 6.
(3) Has within the preceding five years pleaded guilty to, entered a plea of nolo contendere or been convicted of any felony, or committed or been convicted of any act involving fraud or moral ~~turpitude;~~ turpitude.
(4) Has had an auctioneer or apprentice auctioneer or auction firm license ~~revoked; or~~ revoked.

(5) Has, within the preceding five years, committed any act ~~which~~ that constitutes grounds for license suspension or revocation under this Chapter or a Commission rule.

(c) Each applicant for an apprentice auctioneer license shall submit a written application in a form approved by the Commission and containing at least two statements by residents of the community in which the applicant resides attesting to the applicant's good moral character.

(c1) Each apprentice auctioneer application and license shall name a licensed auctioneer to serve as the supervisor of the apprentice. No apprentice auctioneer may enter into an agreement to conduct an auction, or conduct an auction, without the express approval of his supervisor. The supervisor shall review all contracts before approving them and shall regularly review the records his apprentice is required to maintain under G.S. 85B-7 to see that they are accurate and current, and shall perform such other supervisory duties as may be required by the Commission.

(d) No person shall be licensed as an auctioneer unless the person has held an apprentice auctioneer license and served as an apprentice auctioneer for the two preceding years, accumulated sufficient knowledge and experience in such areas of the auctioneer profession as the Commission may deem appropriate, and has taken an examination approved by the Commission and performed on it to the satisfaction of the Commission. The examination shall test the applicant's understanding of the law relating to auctioneers and auctions, ethical practices for auctioneers, the mathematics applicable to the auctioneer business, and such other matters relating to auctions as the Commission considers appropriate. The examination shall be given at least twice each year in Raleigh, and at other times and places the Commission designates, but no person shall be allowed to take the examination within six months after having failed it a second time.

~~Any person who has been in the auctioneer business in this State for at least two years prior to the effective date of this act [July 1, 1973], and who makes proper application to the Commission within one year after July 1, 1973, may be licensed as an auctioneer without holding an apprentice license and serving as an apprentice of two years, and without taking the examination required by this subsection.~~ Any person who has successfully completed the equivalent of at least 80 hours of classroom instruction in a course in auctioneering at an institution ~~approved by the Commission~~ whose curriculum and instructors meet the qualifications approved or established by the Commission may be licensed as an auctioneer without holding an apprentice license and serving as an apprentice for two years, but ~~must~~ shall take the examination required by this subsection and perform on it to the satisfaction of the Commission.

Each applicant for an auctioneer license shall submit a written application in a form approved by the ~~Commission.~~ Commission, pay all applicable fees, and consent in writing to a criminal history check as required by G.S. 85B-3.2. If the applicant has been previously licensed as an apprentice auctioneer, the application shall contain an evaluation by the applicant's supervisor of the applicant's performance as an apprentice auctioneer and the applicant's performance in specific areas as required by the Commission. If the applicant is exempted from apprenticeship after completion of the

equivalent of at least 80 hours of classroom instruction in auctioneering, the application shall contain a transcript of the applicant's course work in auctioneering. Each application shall be accompanied by statements of at least two residents of the community in which the applicant resides attesting to the applicant's good moral character. The Commission may require verification of any information included in an application for an auctioneer license and may request other information or verification of information provided to determine whether the applicant possesses the good moral character or other qualifications for licensure.

(e) Each license issued under this Chapter shall be valid from July 1 of the year issued, or from the date issued, whichever is later, to the following June 30 unless sooner revoked or suspended pursuant to this Chapter or a rule of the Commission. A license may be renewed for one year at a time, except an apprentice auctioneer license may not be renewed for more than three times. No examination shall be required for renewal of an auctioneer license if the application for renewal is made within 24 months of the expiration of the previous license.

(e1) The Commission may require licensees to complete annually not more than six hours of Commission-approved continuing education courses prior to license renewal. The Commission may impose different continuing education requirements, including no such requirements, upon the classes of licensees under this Chapter. The Commission may waive any or all continuing education requirements in cases of hardship, disability, or illness, or under other circumstances as the Commission deems appropriate.

(f) No person shall be issued an auctioneer or apprentice auctioneer license until the person has made the contribution to the Fund as required by G.S. 85B-4.1.

(g) An auction firm must be licensed by the Board even though no owner or officer of the firm acts as an auctioneer. To be licensed an auction firm must make the contribution to the Fund as required by G.S. 85B-4.1 and must pay the proper fees as set out in G.S. 85B-6. Auction firms are covered by the provisions of G.S. 85B-8.

An auction firm license issued by the Commission is restricted to the persons named in the license and does not inure to the benefit of any other person. Where a license is issued to an auction firm, authority to transact business under the license is limited to the person or persons designated in the application and named in the license.

The designated person or persons, prior to being licensed, shall be required to take a written examination, approved by the Commission, and demonstrate to the satisfaction of the Commission a thorough understanding of the law relating to the conduct of the auction business and other matters the Commission deems appropriate. An individual who is licensed as an auctioneer and who is the designated person applying for an auction firm license is not required to take the auction firm examination. Licensed real estate brokers and real estate firms may be exempt from the auction firm examination provided they employ or associate themselves with a licensed auctioneer to handle those aspects of the transactions peculiar to the auctioneer profession. Any person or entity, on the effective date of this Chapter, duly licensed as an auction firm in good standing is not required to

take any examination in order to maintain or to renew an auction firm license provided that the license does not otherwise expire or lapse and is not suspended or revoked by the Commission.

(h) The Commission shall publish at least once a year a list of names and addresses of all persons, sole proprietorships, partnerships and corporations holding valid apprentice auctioneer, auctioneer, or auction firm licenses.

(i) The Commission may investigate as it deems necessary the ethical background of any applicant for licensure under this Chapter."

Section 5. G.S. 85B-4.1 reads as rewritten:

"*§ 85B-4.1. Auctioneer Recovery Fund.*

(a) In addition to license fees, upon application for a license or renewal of a license, the Commission may charge the applicant or licensee up to fifty dollars ($50.00) per year to be included in the Fund.

(b) The Commission shall maintain at least ~~one~~ two hundred thousand dollars ~~($100,000)~~ ($200,000) in the Fund for use as provided in this Chapter. The Fund may be invested by the State Treasurer in interest bearing accounts, and any interest accrued shall be added to the Fund. Sufficient liquidity shall be maintained to insure that funds will be available to satisfy claims processed through the Board. The Fund may be disbursed by a warrant drawn against the State Treasurer or by other method at the discretion of the State Treasurer.

(c) The Commission, in its discretion, may use contents of the Fund in excess of ~~one~~ two hundred thousand dollars ~~($100,000)~~ ($200,000) for the following purposes:

(1) To promote education and research in the auctioneer profession, in order to benefit persons licensed under this Chapter and to improve the efficiency of the ~~profession;~~ profession.

(2) To underwrite educational seminars, training centers, and other forms of educational projects for the use and benefit of ~~licensees;~~ licensees.

(3) To sponsor, contract for, or underwrite education and research projects in order to advance the auctioneer profession in ~~North Carolina; and~~ North Carolina.

(4) To cooperate with associations of auctioneers, or other groups, in order to promote the enlightenment and advancement of the auctioneer profession in North Carolina."

Section 6. G.S. 85B-6(a) reads as rewritten:

"*§ 85B-6. Fees; local governments not to charge fees or require licenses.*

(a) The Commission shall collect and remit to the State Treasurer fees in an amount not to exceed the following:

Item	Maximum Fee	
Apprentice Auctioneers:		
Application for license	~~$50.00~~	$125.00
Issuance or renewal of license	~~50.00~~	125.00
Auctioneers:		
Application for license	~~50.00~~	125.00
Examination	~~25.00~~	75.00
Issuance or renewal of license	~~100.00~~	250.00

Auction Firms:		
Application for license	~~50.00~~	125.00
Examination	~~25.00~~	75.00
Issuance or renewal of license	~~100.00~~	250.00
Reinstatement of License	~~25.00.~~	75.00.

An application fee for a license and an examination fee are nonrefundable. The amount payable by a nonresident under G.S. 85B-5 to obtain a nonresident reciprocal auctioneer license is the greater of the amount set in the above table for an examination for and the issuance of an auctioneer's license and the amount the nonresident's state would charge a resident auctioneer of this State to obtain a comparable license from that state.

A reinstatement fee is payable when a person applies for renewal of a license after the license has lapsed for failure to renew it before it expired. The reinstatement of a lapsed license is not retroactive in effect and does not limit the authority of the courts or of the Commission to take disciplinary action against a person who engages in the auctioneer profession with a lapsed license."

Section 7. G.S. 85B-8 reads as rewritten:

"*§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of license.*

(a) The following shall be grounds for the assessment of a civil penalty in accordance with G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

(1) Any violation of this Chapter or any violation of a rule or regulation duly adopted by the ~~Commission;~~ Commission.

(2) A continued and flagrant course of misrepresentation or making false promises, either by the licensee, an employee of the licensee, or by someone acting on behalf of and with the licensee's ~~consent;~~ consent.

(3) Any failure to account for or to pay over within a reasonable time, not to exceed 30 days, funds belonging to another which have come into the licensee's possession through an auction ~~sale;~~ sale.

(4) Any false, misleading, or untruthful ~~advertising;~~ advertising.

(5) Any act of conduct in connection with a sales transaction which demonstrates bad faith or ~~dishonesty;~~ dishonesty.

(6) Knowingly using false bidders, ~~cappers~~ cappers, or pullers, or knowingly making a material false statement or ~~representation;~~ representation.

(7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association located in North Carolina funds received for another person through sale at ~~auction;~~ auction.

(8) Failure to make the required contribution to the ~~Fund;~~ Fund.

(9) The commission or conviction of a crime that is punishable as a felony offense under the laws of North Carolina or the laws of

the jurisdiction where committed or convicted, or the commission of any act involving fraud or moral ~~turpitude;~~ turpitude.

(10) Failure to properly make any disclosures or to provide documents or information required by this Chapter or by the ~~Commission;~~ Commission.

(11) A demonstrated lack of financial responsibility.

(b) to (d) Repealed by Session Laws 1973, c. 1195, s. 5.

(e) The Commission may upon its own motion or upon the complaint in writing of any person, provided the complaint and any evidence presented with it establishes a prima facie case, hold a hearing and investigate the actions of any auctioneer, apprentice auctioneer, or auction firm, or any person who holds himself or herself out as an auctioneer or apprentice auctioneer, and shall have the power to impose a civil penalty on any licensee, suspend or revoke any license issued under the provisions of this Chapter, or to reprimand or censure any licensee. In all proceedings for the imposition of a civil penalty or the denial, suspension, or revocation of licenses, the provisions of Chapter 150B of the General Statutes including provisions relating to summary suspension shall be applicable. Any person who desires to appeal the denial of an application for any license authorized to be issued under this Chapter shall file a written appeal with the Commission not later than 30 days following notice of denial.

(f) A person whose license has been denied, suspended, or revoked may not apply in that person's name or in any other manner within the period during which the order of denial, suspension, or revocation is in effect, and no firm, partnership, or corporation in which any person has a substantial interest or exercises management responsibility or control may be licensed during the period."

Section 8. G.S. 85B-9(a) reads as rewritten:

"(a) Any person, corporation or association of persons violating the provisions of G.S. 85B-4(a) shall be guilty of a Class 1 misdemeanor. The Attorney General of North Carolina, or the Attorney General's designee, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter."

Section 9. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"*§ 114-19.8. Criminal record checks of applicants for auctioneer license.*

The Department of Justice may provide to the North Carolina Auctioneers Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for an auctioneer's license under Chapter 85B of the General Statutes. Along with the request, the Commission shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a check of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Commission shall keep all

forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Commission shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

Section 10. Sections 3, 4, 6, and 9 of this act become effective July 1, 1999. Sections 1, 2, and 7 of this act become effective October 1, 1999. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Became law upon approval of the Governor at 4:22 p.m. on the 4th day of June, 1999.

S.B.1047 **SESSION LAW 1999-143**

AN ACT TO PROHIBIT THE TAKING OF SHELLFISH WITHIN ONE HUNDRED FIFTY FEET OF A PUBLICALLY OWNED PIER BENEATH WHICH THE DIVISION OF MARINE FISHERIES HAS DEPOSITED CULTCH MATERIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-207 reads as rewritten:

"§ *113-207. ~~Clamming on posted oyster rocks~~ Taking shellfish from certain areas forbidden; penalty.*

(a) ~~The Department shall post to~~ To the extent that funds are ~~available~~ available, the Department shall post oyster rocks or appropriate landing sites to forbid the taking of clams upon such rocks by use of rakes or tongs or any other device which will disturb or damage the oysters thereon. ~~Within the meaning of this section, oyster rocks shall be defined as those rocks producing oysters upon which the tide rises and falls.~~ As used in this section, 'oyster rocks' mean those rocks in the coastal fishing waters upon which oysters grow.

(b) It ~~shall be~~ is unlawful for any person to take clams on oyster rocks posted by the Department by use of rakes, tongs, or any other device which will disturb or damage the oysters growing thereon. This section will not apply to the taking of clams by signing. ~~A violation of this section shall constitute a Class 3 misdemeanor.~~

(c) It is unlawful for any person to take shellfish within 150 feet of any part of a publically owned pier beneath which the Division of Marine Fisheries has deposited cultch material.

(d) A person who violates this section is guilty of a Class 3 misdemeanor."

Section 2. This act becomes effective September 1, 1999, and applies to violations occurring on or after that date.

In the General Assembly read three times and ratified this the 26th day of May, 1999.

Became law upon approval of the Governor at 4:25 p.m. on the 4th day of June, 1999.

S.B. 1060 **SESSION LAW 1999-144**

AN ACT TO PROVIDE TRUSTEES WITH ADDITIONAL AUTHORITY TO SEVER TRUSTS INTO SEPARATE TRUSTS CONSISTENT WITH THE BEST INTERESTS OF THE TRUST BENEFICIARIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 32-27(25a) reads as rewritten:

"(25a) Divide One Trust into Several Trusts and Make Distributions From Those Trusts. --

a. To divide the funds and properties constituting any trusts into two or more identical separate trusts that represent two or more fractional shares of the funds and properties being divided, or to hold any addition or contribution to an existing trust as a separate, identical trust, and to make distributions of income and principal by a method other than pro rata from the separate trusts so created as the fiduciary determines to be in the best interests of the trust beneficiaries. In any case where ~~a single trust has been divided by the fiduciary into two separate trusts,~~ two separate, identical trusts are created pursuant to this sub-subdivision, one of which is fully exempt from the federal generation-skipping transfer tax and one of which is fully subject to that tax, the fiduciary may thereafter, to the extent possible consistent with the terms of the governing instrument, determine the value of any mandatory or discretionary distributions to trust beneficiaries on the basis of the combined value of both trusts, but may satisfy such distributions from the separate trusts in a manner designed to minimize the current and potential generation-skipping transfer tax.

b. To divide the funds and properties constituting any trusts into two or more separate, nonidentical trusts if (i) the new trusts so created are not inconsistent with the terms of the governing instrument; and (ii) the terms of the new trusts provide in the aggregate for the same succession of interests and beneficiaries as are provided in the original trust.

c. To fund the new trusts created pursuant to the authority granted under this subdivision either (i) by pro rata allocation of the assets of the original trust; (ii) based upon the fair market value of the assets at the date of division; or (iii) in a manner fairly reflecting the net appreciation or depreciation of the trust assets measured from the valuation date to the date of division."

Section 2. G.S. 36A-136(24) reads as rewritten:

"(24) To divide one trust into several trusts and make distributions from those trusts in the following manner:

a. To divide the funds and properties constituting any trust into two or more identical separate trusts that represent two or more fractional shares of the funds and properties being

divided, or to hold any addition or contribution to an existing trust as a separate, identical trust, and to make distributions of income and principal by a method other than pro rata from the separate trusts so created as the fiduciary determines to be in the best interests of the trust beneficiaries. In any case where ~~a single trust has been divided by the fiduciary into two separate trusts,~~ two separate, identical trusts are created pursuant to this sub-subdivision, one of which is fully exempt from the federal generation-skipping transfer tax and one of which is fully subject to that tax, the fiduciary may thereafter, to the extent possible consistent with the terms of the governing instrument, determine the value of any mandatory or discretionary distributions to trust beneficiaries on the basis of the combined value of both trusts, but may satisfy such distributions by a method other than pro rata from the separate trusts in a manner designed to minimize the current and potential generation-skipping transfer tax.

b. To divide the funds and properties constituting any trusts into two or more separate, nonidentical trusts if (i) the new trusts so created are not inconsistent with the terms of the governing instrument, and (ii) the terms of the new trusts provide in the aggregate for the same succession of interests and beneficiaries as are provided in the original trust.

Funding of the new trusts created pursuant to the authority granted under this subdivision must either (i) be carried out by pro rata allocation of the assets of the original trust; (ii) be based upon the fair market value of the assets at the date of division; or (iii) be carried out in a manner fairly reflecting the net appreciation or depreciation of the trust assets measured from the valuation date to the date of division."

Section 3. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 26th day of May, 1999.

Became law upon approval of the Governor at 4:26 p.m. on the 4th day of June, 1999.

S.B. 329 **SESSION LAW 1999-145**

AN ACT TO MAKE NORTH CAROLINA'S LAPSE STATUTE LESS RESTRICTIVE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 31-42 reads as rewritten:

"*§ 31-42. Failure of devises ~~and legacies~~ by lapse or otherwise; renunciation.*

~~(a) Unless a contrary intent is indicated by the will, where a devise or legacy of any interest in property is given to a person as an individual or as a member of a class and the person dies survived by qualified issue before the testator dies, then the qualified issue of such deceased person that~~

~~survive the testator shall represent the deceased person, and the entire interest that the deceased person would have taken had he survived the testator shall pass by substitution to his qualified issue. The qualified issue shall take pursuant to the preceding sentence regardless of whether or not the deceased person dies before or after the making of the will. Where a devise or legacy of any interest in property is given to a person as a member of a class and the person predeceases the testator and is not survived by qualified issue, then, unless a contrary intent is indicated by the will, the entire interest of such person shall devolve upon the members of the class who survived the testator and the qualified issue of any members of the class who predeceased the testator, taking by substitution as herein provided.~~

~~(b) The term "qualified issue" as used in subsection (a) means issue of the deceased person who would have been an heir of the testator under the provisions of the Intestate Succession Act had there been no will.~~

~~(c) If subsection (a) is not applicable and if a contrary intent is not indicated by the will:~~

~~(1) Where a devise or legacy of any interest in property is void, is revoked, or lapses or which for any other reason fails to take effect, such a devise or legacy shall pass:~~

~~a. Under the residuary clause of the will applicable to real property in case of such devise, or applicable to personal property in case of such legacy, or~~

~~b. As if the testator had died intestate with respect thereto when there is no such applicable residuary clause; and~~

~~(2) Where a residuary devise or legacy is void, revoked, lapsed or for any other reason fails to take effect with respect to any devisee or legatee named in the residuary clause itself or a member of a class described therein, then such devise or legacy shall continue as a part of the residue and shall pass to the other residuary devisees or legatees if any; or, if none, shall pass as if the testator had died intestate with respect thereto.~~

~~(d) Renunciation of a devise or legacy shall be as provided for in Chapter 31B of the General Statutes.~~

(a) Unless the will indicates a contrary intent, if a devisee predeceases the testator, whether before or after the execution of the will, and if the devisee is a grandparent of or a descendant of a grandparent of the testator, then the issue of the predeceased devisee shall take in place of the deceased devisee. The devisee's issue shall take the deceased devisee's share in the same manner that the issue would take as heirs of the deceased devisee under the intestacy provisions in effect at the time of the testator's death. The provisions of this section apply whether the devise is to an individual, to a class, or is a residuary devise. In the case of the class devise, the issue shall take whatever share the deceased devisee would have taken had the devisee survived the testator.

(b) Unless the will indicates a contrary intent, if the provisions of subsection (a) of this section do not apply to a devise to a devisee who predeceases the testator, or if a devise otherwise fails, the property shall pass to the residuary devisee or devisees in proportion to their share of the residue. If the devise is a residuary devise, it shall augment the shares of

the other residuary devisees, including the shares of any substitute takers under subsection (a) of this section. If there are no residuary devisees, then the property shall pass by intestacy.

(c) Renunciation of a devise is as provided for in Chapter 31B of the General Statutes.

(d) As used in this section, 'devisee' means any person entitled to take real or personal property under the provisions of a will."

Section 2. This act becomes effective January 1, 2000, and applies to estates of decedents dying on or after that date.

In the General Assembly read three times and ratified this the 26th day of May, 1999.

Became law upon approval of the Governor at 4:27 p.m. on the 4th day of June, 1999.

H.B. 951 **SESSION LAW 1999-146**

AN ACT REQUIRING THAT AT LEAST ONE PERSON WHO IS DIRECTLY ASSISTED BY A PUBLIC HOUSING AUTHORITY BE APPOINTED TO EACH HOUSING AUTHORITY COMMISSION AND REGIONAL HOUSING AUTHORITY COMMISSION IN THE STATE AND TO INCREASE THE MAXIMUM NUMBER OF MEMBERS THAT MAY BE APPOINTED TO A HOUSING AUTHORITY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-5 reads as rewritten:

"*§ 157-5. Appointment, qualifications and tenure of commissioners.*

(a) An authority shall consist of not less than five nor more than ~~nine~~ eleven commissioners appointed by the mayor and ~~he~~ the mayor shall designate the first ~~chairman.~~ chair. No commissioner may be a city official. ~~Notwithstanding G.S. 157-7, 14-234, or any other provision of law, no person shall be barred from serving as a commissioner of any housing authority created under this Chapter because such person is a tenant of the authority or a recipient of housing assistance through any program operated by the authority; provided, that no such~~ At least one of the commissioners appointed shall be a person who is directly assisted by the public housing authority. However, there shall be no requirement to appoint such a person if the authority: (i) operates less than 300 public housing units, (ii) provides reasonable notice to the resident advisory board of the opportunity for at least one person who is directly assisted by the authority to serve as a commissioner, and (iii) within a reasonable time after receipt of the notice by the resident advisory board, has not been notified of the intention of any such person to serve. The mayor shall appoint the person directly assisted by the authority unless the authority's rules require that the person be elected by other persons who are directly assisted by the authority. If the commissioner directly assisted by the public housing authority ceases to receive such assistance, the commissioner's office shall be abolished and another person who is directly assisted by the public housing authority shall be appointed by the mayor.

(b) No commissioner who is also a person directly assisted by the public housing authority shall be qualified to vote on matters affecting his or her official conduct or matters affecting his or her own individual tenancy, as distinguished from matters affecting tenants in ~~general; and further provided, that no~~ general. No more than one third of the members of any housing authority commission shall be tenants of the authority or recipients of housing assistance through any program operated by the authority. ~~Avery, Beaufort, Bertie, Burke, Caldwell, Camden, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Graham, Halifax, Haywood, Henderson, Hertford, Hoke, Hyde, Jackson, Jones, Lenoir, Macon, Martin, Nash, Northampton, Onslow, Pasquotank, Perquimans, Pitt, Polk, Robeson, Rowan, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Watauga, Wilkes, Wilson and Yadkin Counties are exempted from any provision of law allowing a person who is a tenant of the authority to serve as a commissioner of a housing authority.~~

(c) The council may at any time by resolution or ordinance increase or decrease the membership of an authority, within the limitations herein prescribed.

(d) The mayor shall designate overlapping terms of not less than one nor more than five years for the commissioners first appointed. Thereafter, the term of office shall be five years. A commissioner shall hold office until his or her successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. A majority of the commissioners shall constitute a quorum. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services but he or she shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his or her duties.

(e) When the office of the first ~~chairman~~ chair of the authority becomes vacant, the authority shall select a ~~chairman~~ chair from among its members. An authority shall select from among its members a ~~vice-chairman,~~ vice-chair, and it may employ a secretary (who shall be executive director), technical experts and such other officers, ~~agents~~ agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, ~~duties~~ duties, and compensation. An authority may call upon the corporation counsel or chief law officer of the city for such legal services as it may require or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper."

Section 2. G.S. 157-36 reads as rewritten:

"*§ 157-36. Commissioners of regional housing authority.*

(a) The board of county commissioners of each county included in a regional housing authority shall appoint one person as a commissioner of such authority, and each such commissioner to be first appointed by the board of county commissioners of a county may be appointed at or after the time of the adoption of the resolution declaring the need for such regional housing authority or declaring the need for the inclusion of such county in the area of operation of such regional housing authority. When the area of

operation of a regional housing authority is increased to include an additional county or counties as provided in this Article, the board of county commissioners of each such county shall thereupon appoint one additional person as a commissioner of the regional housing authority. The board of county commissioners of each county shall appoint the successor of the commissioner appointed by it.

(b) The commissioners of the regional housing authority shall appoint as a commissioner at least one person who is directly assisted by the authority unless the authority's rules require that the person be elected by other persons who are assisted by the authority. However, there shall be no requirement to appoint such a person if the authority: (i) operates less than 300 public housing units, (ii) provides reasonable notice to all resident advisory boards within the authority's area of operation of the opportunity for at least one person who is directly assisted by the authority to serve as a commissioner, and (iii) within a reasonable time after receipt of the notice by the resident advisory boards, has not been notified of the intention of any such person to serve. The commissioners of the regional housing authority shall appoint successors of the commissioner appointed by them and shall fill any vacancies. A certificate of the appointment signed by the chair of the commissioners of the regional housing authority shall be conclusive evidence of the due and proper selection of the commissioner. If the commissioner directly assisted by the regional housing authority ceases to receive such assistance, the commissioner's office shall be abolished and another person who is directly assisted by the regional housing authority shall be appointed by the commissioners of the regional housing authority.

(c) No commissioner who is also a person directly assisted by the regional housing authority shall be qualified to vote on matters affecting his or her official conduct or matters affecting his or her own individual tenancy, as distinguished from matters affecting tenants in general.

(d) If any county is excluded from the area of operation of a regional housing authority, the office of the commissioner of such regional housing authority appointed by the board of county commissioners of such county shall be thereupon abolished. If the person appointed as a commissioner under subsection (b) of this section resides in a county that is excluded from the authority's area of operation, the office of that commissioner shall be abolished and another person residing within the authority's area of operation shall be appointed.

(e) A certificate of the appointment of any ~~such~~ commissioner signed by the ~~chairman~~ chair of the board of county commissioners (or the appointing officer) shall be conclusive evidence of the due and proper appointment of such commissioner.

(f) If the area of operation of a regional housing authority consists at any time of an even number of counties, except as provided in subsection (g) of this section, the Governor ~~of North Carolina~~ shall appoint one additional commissioner to such regional housing authority whose term of office shall be as herein provided for a commissioner of a regional housing authority, except that such term shall end at any earlier time that the area of operation of the regional housing authority shall be changed to consist of an odd number of counties. The Governor shall likewise appoint each person to

succeed such additional commissioner. A certificate of the appointment of any such additional commissioner shall be signed by the Governor and filed with the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be conclusive evidence of the due and proper appointment of such additional commissioner.

(g) If the membership of the board of commissioners consists of an even number as a result of the appointment of a person who is directly assisted by the regional housing authority, the Governor shall appoint one additional commissioner to the authority whose term of office shall be as herein provided for a commissioner of an authority, except that such term shall end at any earlier time that the area of operation of the authority shall be changed to consist of an even number of counties. A certificate of the appointment shall be signed and filed as provided in subsection (f) of this section. The Governor shall appoint successors to the additional commissioner and shall fill any vacancies.

(h) The commissioners of a regional housing authority shall be appointed for terms of five years except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until his or her successor has been appointed and has qualified.

(i) For inefficiency or neglect of duty or misconduct in office, a commissioner of a regional housing authority may be removed by the appointing authority. ~~board of county commissioners appointing him, or in the case of the commissioner appointed by the Governor, by the Governor: Provided, that such~~ The commissioner shall have been given a copy of the charges against him or her at least 10 days prior to the hearing thereon ~~and: Provided, that such commissioner~~ and shall have had an opportunity to be heard in person or by counsel.

(j) The commissioners appointed as aforesaid shall constitute the regional housing authority, and the powers of such authority shall be vested in such commissioners in office from time to time.

(k) The commissioners of a regional housing authority shall elect a ~~chairman~~ chair from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law upon approval of the Governor at 4:28 p.m. on the 4th day of June, 1999.

S.B. 872 **SESSION LAW 1999-147**

AN ACT TO AMEND THE NATURAL AND SCENIC RIVERS ACT OF 1971 TO REMOVE THE LIMIT ON THE AMOUNT OF ACREAGE THE STATE MAY ACQUIRE FOR INCLUSION IN THE NEW RIVER

SCENIC RIVER AREA OF THE NORTH CAROLINA NATURAL AND SCENIC RIVERS SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-35.1(a) reads as rewritten:

"(a) That segment of the south fork of the New River extending from its confluence with Dog Creek in Ashe County downstream through Ashe and Alleghany Counties to its confluence with the north fork of the New River and the main fork of the New River in Ashe and Alleghany Counties downstream to the Virginia State line shall be a scenic river area and shall be included in the North Carolina Natural and Scenic Rivers System.

The Department shall prepare and implement a management plan for ~~said~~ this river section. This management plan shall recognize and provide for the protection of the existing undeveloped scenic and pastoral features of the river. Furthermore, it shall specifically provide for continued use of the lands adjacent to the river for normal agricultural activities, including, but not limited to, cultivation of crops, raising of cattle, growing of trees and other practices necessary to ~~such~~ these agricultural pursuits.

For purposes of implementing this section and the management plan, the Department ~~is authorized to~~ may acquire lands or interests in ~~lands not to exceed 2,200 acres, to acquire such lands in fee simple or to acquire such interests in lands as easements, to~~ lands, provide for protection of scenic values as described in G.S. 113A-38, and ~~to~~ provide for public access. Easements obtained for the purpose of implementing this section and the management plan shall not abridge the water rights being exercised on May 26, 1975.

Should the Governor seek inclusion of ~~the said~~ this river segment in the National System of Wild and Scenic Rivers by action of the Secretary of Interior, such inclusion shall be at no cost to the federal government, as prescribed in the National Wild and Scenic Rivers Act, and therefore shall be under the terms described in this section of the North Carolina Wild and Scenic Rivers Act and in the management plan developed pursuant thereto."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of May, 1999.

Became law upon approval of the Governor at 4:30 p.m. on the 4th day of June, 1999.

S.B. 773 **SESSION LAW 1999-148**

AN ACT TO CLARIFY THE TIME FOR ACTION ON REMAND FOLLOWING COURT REVIEW OF ANNEXATIONS ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-50(g) reads as rewritten:

"(g) The court may affirm the action of the governing board without change, or it may

(1) Remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have

materially prejudiced the substantive rights of any of the petitioners.

(2) Remand the ordinance to the municipal governing board for amendment of the boundaries to conform to the provisions of G.S. 160A-48 if it finds that the provisions of G.S. 160A-48 have not been met; provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.

(3) Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of G.S. 160A-47 are satisfied.

(4) Declare the ordinance null and void, if the court finds that the ordinance cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of this subsection.

If any municipality shall fail to take action in accordance with the court's instructions upon remand within ~~three months~~ 90 days ~~from receipt of such~~ following entry of the order embodying the court's instructions, the annexation proceeding shall be deemed null and void."

Section 2. G.S. 160A-38(g) reads as rewritten:

"(g) The court may affirm the action of the governing board without change, or it may

(1) Remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners.

(2) Remand the ordinance to the municipal governing board for amendment of the boundaries to conform to the provisions of G.S. 160A-36 if it finds that the provisions of G.S. 160A-36 have not been met; provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.

(3) Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of G.S. 160A-35 are satisfied.

(4) Declare the ordinance null and void, if the court finds that the ordinance cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of this subsection.

If any municipality shall fail to take action in accordance with the court's instructions upon remand within ~~three months~~ 90 days ~~from receipt of such~~ following entry of the order embodying the court's instructions, the annexation proceeding shall be deemed null and void."

ordinances remanded on or after October 1, 1999.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law upon approval of the Governor at 4:32 p.m. on the 4th day of June, 1999.

H.B. 259 **SESSION LAW 1999-149**

AN ACT TO PROVIDE FOR THE LAPSE OF A HOME INSPECTOR'S LICENSE AND AN ASSOCIATE HOME INSPECTOR'S LICENSE UNDER CERTAIN CONDITIONS; TO ESTABLISH RECORD-KEEPING REQUIREMENTS FOR HOME INSPECTORS; AND TO AUTHORIZE THE HOME INSPECTOR LICENSURE BOARD TO ESTABLISH CONTINUING EDUCATION PROGRAMS AND CHARGE FEES FOR THOSE PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-151.55 reads as rewritten:

"§ *143-151.55. Renewal of license; inactive ~~licenses.~~ licenses; lapsed licenses.*

(a) Renewal. -- A license expires on September 30 of each year. A license may be renewed by filing an application for renewal with the Board and paying the required renewal fee. The Board must notify license holders at least 30 days before their licenses expire. The Board must renew the license of a person who files an application for renewal, pays the required renewal fee, has fulfilled the continuing education requirements set by the Board, and is not in violation of this Article when the application is filed. If the Board imposes a continuing education requirement as a condition of renewing a license, the Board must ensure that the courses needed to fulfill the requirement are available in all geographic areas of the State.

(b) Late Renewal. -- The Board may provide for the late renewal of a license upon the payment of a late fee, but no late renewal of a license may be granted more than five years after the license expires.

(c) Inactive License. -- A license holder may apply to the Board to be placed on inactive status. An applicant for inactive status must follow the procedure set by the Board. A license holder who is granted inactive status is not subject to the license renewal requirements during the period the license holder remains on inactive status.

A license holder whose application is granted and is placed on inactive status may apply to the Board to be reinstated to active status at any time. The Board may set conditions for reinstatement to active status. An individual who is on inactive status and applies to be reinstated to active status must comply with the conditions set by the Board.

(d) Lapsed License. -- The license of a licensed home inspector shall lapse if the licensee fails to continuously maintain minimum net assets or a bond as required by G.S. 143-151.58. The license of a licensed associate home inspector shall lapse if the licensee fails to continuously be employed by or affiliated with a licensed home inspector as required by G.S. 143-151.58."

Section 2. G.S. 143-151.57(a) reads as rewritten:

"(a) Maximum Fees. -- The Board may adopt fees that do not exceed the amounts set in the following table for administering this Article:

Item	Maximum Fee
Application for home inspector license	$25.00
Application for associate home inspector license	15.00

Home inspector examination	75.00
Issuance of home inspector license	150.00
Issuance of associate home inspector license	100.00
Late renewal of home inspector license	25.00
Late renewal of associate home inspector license inspector	15.00
Application for course approval	150.00
Renewal of course approval	75.00
Course fee, per credit hour per licensee	5.00
Credit for unapproved continuing education course	50.00
Copies of Board rules or licensure standards	Cost of printing and mailing."

Section 3. G.S. 143-151.58 reads as rewritten:

"*§ 143-151.58. Duties of licensed home inspector or licensed associate home inspector.*

(a) Home Inspection Report. -- A licensed home inspector or licensed associate home inspector must give to each person for whom the inspector performs a home inspection for compensation a written report of the home inspection. The inspector must give the person the report by the date set in a written agreement by the parties to the home inspection. If the parties to the home inspection did not agree on a date in a written agreement, the inspector must give the person the report within three business days after the inspection was performed.

(b) Bond Required. -- A licensed home inspector must continuously maintain minimum net assets or a bond as required in G.S. 143-151.51(3).

(c) Supervision. -- A licensed associate home inspector must be continuously employed by or affiliated with a licensed home inspector as required in G.S. 143-151.52(5).

(d) Record Keeping. -- All licensees under this Article shall make and keep full and accurate records of business done under their licenses. Records shall include the written, signed contract and the written report required by the standards of practice referred to in G.S. 143-151.49(a)(2) and any other information the Board requires by rule. Records shall be retained by licensees for not less than three years. Licensees shall furnish their records to the Board on demand."

Section 4. Article 9F of Chapter 143 of the General Statutes is amended by adding a new section to read:

"*§ 143-151.64. Continuing education requirements.*

(a) Requirements. -- The Board may establish programs of continuing education for licensees under this Article. A licensee subject to a program under this section shall present evidence to the Board upon the license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person has completed the required number of classroom hours of instruction in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board, but shall not be more than 12 credit hours.

(b) Fees. -- The Board may establish a nonrefundable course application fee to be charged to a course sponsor for the review and approval of a proposed continuing education course. Approval of a continuing education course must be renewed annually. The Board may also require a course sponsor to pay a fee for each licensee completing an approved continuing education course conducted by the sponsor.

(c) Credit for Unapproved Course. -- The Board may award continuing education credit for an unapproved course or related educational activity. The Board may prescribe procedures for a licensee to submit information on an unapproved course or related educational activity for continuing education credit. The Board may charge a fee to the licensee for each course or activity submitted.

(d) Extension of Time. -- The Board may, for good cause shown, grant extensions of time to licensees to comply with these requirements. Any licensee who, after obtaining an extension under this subsection, offers evidence satisfactory to the Board that the licensee has satisfactorily completed the required continuing education courses, is in compliance with this section.

(e) Rules. -- The Board may adopt rules governing continuing education requirements, including rules that govern:

(1) The content and subject matter of continuing education courses.
(2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.
(3) The methods of instruction.
(4) The computation of course credit.
(5) The ability to carry forward course credit from one year to another.
(6) The waiver of or variance from the continuing education requirement for hardship or other reasons.
(7) The procedures for compliance and sanctions for noncompliance."

Section 5. This act becomes effective October 1, 1999, and applies to licenses applied for or renewed on or after that date.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law upon approval of the Governor at 4:35 p.m. on the 4th day of June, 1999.

S.B. 1113 **SESSION LAW 1999-150**

AN ACT RELATING TO EMPLOYER CONTACT WITH MEDICAL CARE PROVIDERS FOR CLAIMS UNDER THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-25 reads as rewritten:

"*§ 97-25. Medical treatment and supplies.*

Medical compensation shall be provided by the employer. Notwithstanding the provisions of G.S. 8-53, any law relating to the privacy of medical records or information, and the prohibition against ex parte communications

at common law, an employer paying medical compensation to a provider rendering treatment under this Chapter may obtain records of the treatment without the express authorization of the employee. ~~The Commission shall adopt rules that govern additional methods of oral and written communications between an employer paying compensation under this Chapter and medical care providers. These rules shall protect the employee's right to a confidential physician-patient relationship while facilitating the release of information necessary to the administration of the employee's claim.~~ In case of a controversy arising between the employer and employee relative to the continuance of medical, surgical, hospital, or other treatment, the Industrial Commission may order such further treatments as may in the discretion of the Commission be necessary.

The Commission may at any time upon the request of an employee order a change of treatment and designate other treatment suggested by the injured employee subject to the approval of the Commission, and in such a case the expense thereof shall be borne by the employer upon the same terms and conditions as hereinbefore provided in this section for medical and surgical treatment and attendance.

The refusal of the employee to accept any medical, hospital, surgical or other treatment or rehabilitative procedure when ordered by the Industrial Commission shall bar said employee from further compensation until such refusal ceases, and no compensation shall at any time be paid for the period of suspension unless in the opinion of the Industrial Commission the circumstances justified the refusal, in which case, the Industrial Commission may order a change in the medical or hospital service.

If in an emergency on account of the employer's failure to provide the medical or other care as herein specified a physician other than provided by the employer is called to treat the injured employee, the reasonable cost of such service shall be paid by the employer if so ordered by the Industrial Commission.

Provided, however, if he so desires, an injured employee may select a physician of his own choosing to attend, prescribe and assume the care and charge of his case, subject to the approval of the Industrial Commission."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 4:37 p.m. on the 4th day of June, 1999.

S.B. 483 **SESSION LAW 1999-151**

AN ACT TO REVISE THE LAW GOVERNING THE LIMITATIONS OF SUCCESSORS AND ASSIGNEES OF FOREIGN CORPORATIONS AND FOREIGN NONPROFIT CORPORATIONS TO FILE CAUSES OF ACTION OR PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55-15-02(a) reads as rewritten:

"(a) No foreign corporation transacting business in this State without permission obtained through a certificate of authority under this Chapter or through domestication under prior acts shall be permitted to maintain any action or proceeding in any court of this State unless ~~such~~ the foreign corporation ~~shall have~~ has obtained a certificate of authority prior to ~~trial; nor shall any action or proceeding be maintained in any court of this State by any successor or assignee of such corporation on any cause of action arising out of the transaction of business by such corporation in this State until:~~

~~(1) A certificate of authority shall have been obtained by such corporation or by a foreign corporation which has acquired substantially all of its assets, or~~

~~(2) Substantially all of its assets have been acquired by a domestic corporation or one or more individuals.~~ trial.

An issue arising under this subsection must be raised by motion and determined by the trial judge prior to trial."

Section 2. G.S. 55A-15-02(a) reads as rewritten:

"(a) No foreign corporation conducting affairs in this State without permission obtained through a certificate of authority under this Chapter or through domestication under prior acts shall be permitted to maintain any action or proceeding in any court of this State unless ~~each~~ the foreign corporation ~~shall have~~ has obtained a certificate of authority prior to ~~trial; nor shall any action or proceeding be maintained in any court of this State by any successor or assignee of such corporation on any cause of action arising out of the conduct of affairs by such corporation in this State until:~~

~~(1) A certificate of authority shall have been obtained by the corporation or by a foreign entity which has acquired substantially all of its assets and is entitled to obtain a certificate of authority; or~~

~~(2) Substantially all of its assets have been acquired by a foreign entity which is not entitled to obtain a certificate of authority by a domestic corporation or by one or more individuals.~~ trial.

An issue arising under this subsection ~~shall~~ must be raised by motion and determined by the trial judge prior to trial."

Section 3. This act becomes effective October 1, 1999, and applies to causes of action or proceedings filed on or after that date.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law upon approval of the Governor at 4:40 p.m. on the 4th day of June, 1999.

S.B. 436 **SESSION LAW 1999-152**

AN ACT TO RATIFY, APPROVE, CONFIRM, AND VALIDATE CERTAIN BOND REFERENDA OF UNITS OF LOCAL GOVERNMENT HELD IN CONNECTION WITH THE AUTHORIZATION OF BONDS OF THOSE UNITS.

The General Assembly of North Carolina enacts:

Section 1. Bond referenda held by units of local government in connection with the authorization of bonds are hereby ratified, approved, confirmed, and in all respects validated, notwithstanding the provisions of G.S. 159-61(b), if the authorization of the bonds was approved at an election by a majority of the qualified voters of the unit voting thereon and notice of the referendum was published.

Section 2. This act applies to all bond referenda held by units of local government between April 1, 1997, and June 1, 1998.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1999.

Became law upon approval of the Governor at 4:48 p.m. on the 4th day of June, 1999.

H.B. 474 **SESSION LAW 1999-153**

AN ACT TO REDUCE THE MEMBERSHIP OF THE BERTIE COUNTY ABC BOARD FROM FIVE TO THREE MEMBERS AND TO ALLOW THE APPOINTMENT OF A NEW BERTIE COUNTY ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. The terms of the current members of the Bertie County ABC Board shall terminate on June 30, 1999.

Section 2. Section 1 of Chapter 888 of the 1987 Session Laws is repealed.

Section 3. Section 2 of this act applies only to Bertie County.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of June, 1999.

Became law on the date it was ratified.

H.B. 504 **SESSION LAW 1999-154**

AN ACT RELATING TO THE ADOPTION OF PLANNING, ZONING, AND SUBDIVISION ORDINANCES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The County of Carteret may adopt and enforce planning zoning, and subdivision ordinances and regulations pursuant to Chapter 1033 of the 1959 Session Laws or, in accordance with G.S. 153A-3, pursuant to Article 18 of Chapter 153A of the General Statutes. County ordinances adopted under the local act shall remain in effect until the adoption of ordinances under the general law.

Section 2. After the County of Carteret adopts ordinances, in accordance with G.S. 153A-3, pursuant to Article 18 of Chapter 153A of the General Statutes, all current members of the Carteret County Planning Board shall continue to serve as members until their respective terms expire or they resign. After the current planning board members' terms expire, then the County may replace those members pursuant to the

Planning/Zoning and Subdivision ordinances or regulations that have been adopted in accordance with G.S. 153A-3 pursuant to Article 18 of Chapter 153A of the General Statutes.

Section 3. This act becomes effective October 15, 1999.

In the General Assembly read three times and ratified this the 7th day of June, 1999.

Became law on the date it was ratified.

H.B. 665 **SESSION LAW 1999-155**

AN ACT TO MODIFY THE CURRITUCK COUNTY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Currituck County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3), or from the rental of a campsite within the county. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(a1) Additional occupancy tax. In addition to the tax authorized by subsection (a) of this section, the Currituck County Board of Commissioners may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this act. Currituck County may not levy a tax under this subsection unless it also levies the tax under subsection (a).

(b) A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The Currituck County Tax Collector shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county tax collector in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the county tax collector under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The Board of Commissioners may, for good cause shown, compromise or forgive the tax penalties imposed by this subsection.~~

(e) Use of tax revenue. Currituck County shall use at least seventy-five percent (75%) of the net proceeds of the tax levied under subsection (a) of this section only for tourist related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services. The remainder of the net proceeds of the tax levied under subsection (a) shall be deposited in the Currituck County General Fund and may be used for any lawful purpose. Currituck County may use the net proceeds of the tax levied under subsection (a1) of this section, to the extent that they are needed, for capital costs, operation, and maintenance of the Currituck Wildlife Museum. Whatever is not needed for the capital costs, operation, and maintenance of the Currituck Wildlife Museum shall be used for tourist-related purposes. As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Currituck County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year~~

~~in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Currituck, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of June, 1999.

Became law on the date it was ratified.

H.B. 728 **SESSION LAW 1999-156**

AN ACT AUTHORIZING THE CITY OF GREENVILLE TO REQUIRE FIRE ALARM SYSTEM IN FRATERNITY AND SORORITY HOUSES WITHIN THE CITY AND THE CITY'S EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provision of the State Building Code or any public or local law to the contrary, including Chapter 143 of the General Statutes, the City of Greenville may require by ordinance the installation of a fire alarm system in all fraternity and sorority houses within the corporate limits of the City or within the City's extraterritorial planning jurisdiction, the installation to be completed as provided in the ordinance within a reasonable period of time, to be determined at the adoption of the ordinance, following the effective date of the ordinance. A fire alarm system shall include a fire alarm control panel, manual fire alarm pull boxes at each required exit, smoke detectors in all sleep areas, heat detectors in unoccupied areas, audible devices that can be heard throughout the houses, a central monitoring station, and a power source.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of June, 1999.

Became law on the date it was ratified.

S.B. 643 **SESSION LAW 1999-157**

AN ACT TO AMEND THE LAW GOVERNING INSURANCE PREMIUM FINANCING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-35-30(a) reads as rewritten:

"(a) The licensee shall keep and use in his business ~~such~~ any books, accounts, and records ~~as~~ that will enable the Commissioner to determine whether ~~such~~ the licensee is complying with the provisions of this Article and with the rules and regulations lawfully made by the Commissioner hereunder. Every licensee shall preserve such books, accounts, and records, including cards used in a card system, if any, for at least three years after making the final entry in respect to any insurance premium finance agreement recorded therein; provided, however, the preservation of photographic reproductions thereof or records in ~~photographic~~ photographic, imaging, microfilm, or microfiche form shall constitute compliance with this ~~requirement.~~ requirement by any licensee. The Commissioner may require of licensees under oath and in the form prescribed by him regular or special reports as he may deem necessary to the proper supervision of licensees under this Article."

Section 2. G.S. 58-35-50 reads as rewritten:

"*§ 58-35-50. Form, contents and execution of insurance premium finance agreements.*

(a) An insurance premium finance agreement shall be in writing, dated, signed by the insured, and the printed portion thereof shall be in ~~at least eight point type.~~ type that is legible, as determined by rule. It shall contain the entire agreement of the parties with respect to the insurance contract, the premiums for which are advanced or to be advanced under it, ~~and:~~ and the following:

~~(1) At its top, the words 'INSURANCE PREMIUM FINANCE AGREEMENT' or similar wording in at least 10 point bold type; and the insurance premium finance company license number shall also appear, and:~~

~~(2) A notice in at least eight point bold type, reading as follows: 'NOTICE':~~

'INSURANCE PREMIUM FINANCE AGREEMENT
NOTICE

a. Do not sign this agreement before you read it.
b. You are entitled to a copy of this agreement.
c. Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the service charge.'

(b) An insurance premium finance agreement shall:

(1) Contain the following:

a. The name and place of business of the insurance agent or broker negotiating the related insurance ~~contract,~~ contract;
b. The ~~the~~ name of the insured and the ~~residence or~~ residence, the place of ~~business~~ business, or any other mailing address of the insured as specified by ~~him,~~ the insured;
c. The ~~the~~ name and place of business of the insurance premium finance company to which installments or other payments are to be ~~made,~~ made;
d. A brief ~~a~~ description of the insurance ~~contract,~~ contract;
e. The ~~the~~ premiums for which are advanced or to be advanced under the ~~agreement,~~ agreement; and

f. The ~~the~~ amount of the premiums for such insurance contract; and

(2) Set forth the following ~~items:~~ items where applicable:

a. The total amount of the premiums;

b. The amount of the down payment;

c. The principal balance, which is the difference between items a and b;

d. The amount of the service charge;

e. The ~~balance, which is the sum of items c and d,~~ balance payable by the insured, meaning the sum of the amounts stated under items c. and d. of this subdivision.

f. ~~the~~ The number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.

(c) The items set forth in subsection (b) of this section need not be stated in the sequence or order ~~set forth above, inapplicable items may be omitted;~~ in which they appear in that subsection, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(d) No insurance premium finance agreement shall be signed by an insured when it contains any blank space to be filled in after it has been signed; however, if the insurance contract, the premiums for which are advanced or to be advanced under the agreement, has not been issued at the time of its signature by the insured and it so provides, the name of the authorized insurer by whom such insurance contract is issued and the policy number and the due date of the first installment may be left blank and later inserted in the original of the agreement after it has been signed by the insured."

Section 3. G.S. 58-35-55(d) reads as rewritten:

"(d) The provisions of subsection (c) of this section pertaining to the time from which the service charge is calculated apply if the premiums under only one insurance contract are advanced or are to be advanced under an insurance premium finance ~~agreement;~~ agreement. If ~~if~~ premiums under more than one insurance contract are advanced or are to be advanced under an insurance premium finance agreement, the service charge shall be computed from the earlier of the following:

(1) The date that the premium is advanced on behalf of the insured.

(2) The inception date of ~~such~~ any insurance ~~contracts, or from~~ contract financed on the premium finance agreement.

~~due date of such premiums; however, not more than~~

Only one minimum service charge shall apply to each insurance premium finance agreement."

Section 4. G.S. 58-35-65 reads as rewritten:

"*§ 58-35-65. Delivery of copy of insurance premium finance agreement to insured.*

Before the due date of the first installment payable under an insurance premium finance agreement, the insurance premium finance company holding the agreement or the insurance agent shall ~~deliver~~ cause to be

delivered to the insured, or mail to ~~him~~ the insured at ~~his~~ the insured's address as shown in the agreement, a copy of the agreement."

Section 5. G.S. 58-35-80(b) reads as rewritten:

"(b) The amount of any such refund credit shall represent at least as great proportion of the service charge, if any, as the sum of the periodic balances after the month in which prepayment is made bears to the sum of all periodic balances under the schedule of installments in the agreement. Where the amount of the refund credit for anticipation of payment is less than one dollar ($1.00), no refund need be made. This section does not relieve the premium finance company of its duty to report and deliver these unrefunded monies to the State Treasurer in accordance with G.S. 116B-29(b)."

Section 6. G.S. 58-35-85 reads as rewritten:

"*§ 58-35-85. Procedure for cancellation of insurance contract upon default; return of unearned premiums; collection of cash surrender value.*

When an insurance premium finance agreement contains a power of attorney or other authority enabling the insurance premium finance company to cancel any insurance contract or contracts listed in the agreement, the insurance contract or contracts shall not be cancelled unless the cancellation is effectuated in accordance with the following provisions:

(1) Not less than 10 days' written notice ~~be mailed~~ is sent by personal delivery, first-class mail, electronic mail, or facsimile transmission to the last known address of the insured or insureds shown on the insurance premium finance agreement of the intent of the insurance premium finance company to cancel his or their insurance contract or contracts unless the defaulted installment payment is received. ~~A notice~~ Notification thereof shall also be ~~sent~~ provided to the insurance agent.

(2) After expiration of the 10-day period, the insurance premium finance company shall send the insurer a request for cancellation and shall ~~mail~~ send ~~a copy of the request for~~ notice of the requested cancellation to the insured by personal delivery, first-class mail, electronic mail, electronic transmission, or facsimile transmission at his last known address as shown on the records of the insurance premium finance ~~agreement.~~ company and to the agent. Upon written request of the insurance company, ~~The~~ the premium finance company shall ~~include~~ furnish a copy of the power of ~~attorney with the request for cancellation if the insurer has not already received a copy of the power of attorney with the application.~~ attorney to the insurance company. The written request shall be sent by mail, personal delivery, electronic mail, or facsimile transmission.

(3) Upon receipt of a copy of the request for cancellation notice by the insurer, the insurance contract shall be cancelled with the same force and effect as if the ~~aforesaid~~ request for cancellation had been submitted by the ~~insured himself,~~ insured, without requiring the return of the insurance contract or contracts.

(4) All statutory, regulatory, and contractual restrictions providing that the insured may not cancel ~~his~~ the insurance contract unless

~~he~~ the insurer first satisfies the restrictions by giving a prescribed notice to a governmental agency, the insurance carrier, an individual, or a person designated to receive the notice for said governmental agency, insurance carrier, or individual shall apply where cancellation is effected under the provisions of this section.

(4a) If an insurer receives notification from an insurance agent or premium finance company that the initial down payment for the premium being financed has been dishonored by a financial institution, or otherwise unpaid, there is no valid contract for insurance and the policy will be voided.

(5) Whenever an insurance contract is cancelled in accordance with this section, the insurer shall promptly return whatever gross unearned premiums are due under the contract to the insurance premium finance company effecting the cancellation for the benefit of the insured or ~~insureds.~~ insureds, no later than 30 days after the effective date of cancellation. Whenever the return premium is in excess of the amount due the insurance premium finance company by the insured under the agreement, the excess shall be remitted promptly to the order of the ~~insured,~~ insured, as provided in subdivision (8) of this section, subject to the minimum service charge provided for in this Article. In the event that a premium is subject to an audit to determine the final premium amount, the amount to be refunded to the premium finance company shall be calculated upon the deposit premium and the insurer shall return that amount to the premium finance company no later than 30 days after the effective date of cancellation. This provision shall not limit any other remedies the insurer may have against the insured for additional premiums.

(6) The provisions of this section relating to request for cancellation by the insurance premium finance company of an insurance contract and the return by an insurer of unearned premiums to the insurance premium finance company, also apply to the surrender by the insurance premium finance company of an insurance contract providing life insurance and the payment by the insurer of the cash value of the contract to the insurance premium finance company, except that the insurer may require the surrender of the insurance contract.

(7) The insurer shall not deduct from any return premiums any amount owed to the insurer for any other indebtedness owed to the insurer by the insured on any policy or policies other than those being financed under the premium finance agreement.

(8) In the event that the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund the excess to the insured as soon as possible, but in no event later than 30 days of receipt of the return premium, provided that no refund shall be required if it is in an amount less than one dollar ($1.00). This subdivision does not relieve the premium finance

company of its duty to report and deliver these unrefunded monies to the State Treasurer in accordance with G.S. 116B-29(b).

(9) In the event that a balance due the premium finance company remains on the account after the cancellation of the agreement, the outstanding balance may earn interest at the rate stated in the agreement until paid in full.

(10) If a mortgagee or other loss payee is shown on the insurance contract, the insurer shall notify the mortgagee or loss payee of the cancellation. The written notice shall be sent by mail, personal delivery, electronic mail, or facsimile transmission to the designated mortgagee's or loss payee's last known address. Proof of mailing is sufficient proof of notice. Failure to send this notice to any designated mortgagee or loss payee shall not give rise to any claim on the part of the insured."

Section 7. G.S. 58-35-40 reads as rewritten:

"*§ 58-35-40. Rebates and inducements prohibited; assignment of insurance premium finance agreements.*

(a) ~~No insurance premium finance company, and no employee of such a company shall pay, allow, or offer to pay or allow in any manner whatsoever to an insurance agent or any employee of an insurance agent, or to any other person, or as an inducement to the financing of an insurance policy with the insurance premium finance company or after any such policy has been financed, any rebate whatsoever, either from the service charge for financing specified in the insurance premium finance agreement or otherwise, or~~ No insurance premium finance company shall pay, allow, or offer to pay or allow payment to an insurance agent, and no insurance agent shall accept from a company, a rebate as an inducement to the financing of an insurance policy with the company. No insurance premium finance company shall give or offer to give to an insurance agent, and no insurance agent shall accept from a company, any valuable consideration or inducement of any ~~kind~~ kind, directly or indirectly, other than an article of merchandise not exceeding one dollar ($1.00) in value which shall have thereon the advertisement of the insurance premium finance ~~company; but an~~ company. An insurance premium finance company may purchase or otherwise acquire an insurance premium finance agreement ~~provided that it conforms to this Article in all respects,~~ from another insurance premium finance company with recourse against the insurance premium finance company on such terms and conditions as may be mutually agreed upon by the parties, if the agreement complies with the requirements of this Article. ~~and such terms~~ The terms and conditions of the agreement shall be subject to the approval of the Commissioner.

(b) No filing of the assignment or notice thereof to the insured shall be necessary to the validity of the written assignment of an insurance premium finance agreement as against creditors or subsequent purchases, pledges, or encumbrancers of the assignor.

(c) As used in this section, the term 'insurance premium finance company' includes employees of the company; the term 'insurance agent'

includes employees of the insurance agent; and the word 'company' means an insurance premium finance company."

Section 8. This act becomes effective October 1, 1999, and applies to premium finance agreements or contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 2nd day of June, 1999.

Became law upon approval of the Governor at 5:20 p.m. on the 8th day of June, 1999.

S.B. 214 **SESSION LAW 1999-158**

AN ACT TO PROVIDE A MEANS OF MEASURING AVERAGE FINAL COMPENSATION FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL RETIREMENT SYSTEM WHO PURCHASE CREDITABLE SERVICE FOR LEAVES OF ABSENCE INCURRED WHILE RECEIVING WORKERS' COMPENSATION PAYMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-26(l) reads as rewritten:

"(l) Notwithstanding any other provision of this Chapter, any member may purchase creditable service for periods of employer approved leaves of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. This service shall be purchased by paying a cost calculated in the following manner:

(1) Leaves of Absence Terminated Prior to July 1, 1983. -- The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminated upon return to service prior to July 1, 1983, shall be a lump sum amount payable to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, and shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

(2) Leaves of Absence Terminating On and After July 1, 1983. -- The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon return to service on and after July 1, 1983, shall be a lump sum amount due and payable to the

Annuity Savings Fund within six months from return to service equal to the total employee and employer percentage rates of contribution in effect at the time of purchase and based on the annual rate of compensation of the member immediately prior to the leave of absence; Provided, however, the cost to a member whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the six-month period.

Whenever the creditable service purchased pursuant to this subsection is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 128-21(5) had the member not been on leave of absence without pay, then the compensation that the member would have received during the purchased period shall be included in calculating the member's average final compensation. In such cases, the compensation that the member would have received during the purchased period shall be based on the annual rate of compensation of the member immediately prior to the leave of absence."

Section 2. G.S. 135-4(r) reads as rewritten:

"(r) Notwithstanding any other provision of this Chapter, any member may purchase creditable service for periods of employer approved leaves of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. This service shall be purchased by paying a cost calculated in the following manner:

(1) Leaves of Absence Terminated Prior to July 1, 1983. -- The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminated upon return to service prior to July 1, 1983, shall be a lump sum amount payable to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, and shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the board of trustees. Notwithstanding the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

(2) Leaves of Absence Terminating On and After July 1, 1983, but before January 1, 1988. -- The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon

return to service on and after July 1, 1983, but before January 1, 1988, shall be a lump sum amount due and payable to the Annuity Savings Fund within six months from return to service equal to the total employee and employer percentage rates of contribution in effect at the time of purchase and based on the annual rate of compensation of the member immediately prior to the leave of absence; Provided, however, the cost to a member whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the six-month period.

(3) Leaves of Absence Terminating On and After January 1, 1988. -- The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon or before a return to service on and after January 1, 1988, shall be due and payable to the Annuity Savings Fund within six months from return to service and shall be a lump sum amount equal to the employee percentage rate of contribution in effect at the time of purchase applied to the annual rate of compensation of the member immediately prior to the leave of absence. For members electing to make this payment, the member's employer which granted the leave of absence, or the member's employer upon a return to service, or both, shall make a matching lump sum payment to the Pension Accumulation Fund within six months from return to service equal to the employer percentage rate of contribution in effect at the time of purchase applied to the annual rate of compensation of the member immediately prior to the leave of absence. Such purchases of creditable service are applicable only when members have membership service credits within 30 days prior to the leave of absence and within 12 months following the leave of absence and such membership service is creditable service at the time of purchase. Notwithstanding any other provision of this subdivision, the cost to a member and to a member's employer or former employer or both employers whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof that the payment is made after the six-month period.

Whenever the creditable service purchased pursuant to this subsection is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5) had the member not been on leave of absence without pay, then the compensation that the member would have received during the purchased period shall be included in calculating the member's average final compensation. In such cases, the compensation that the member would have received during the purchased period shall be based on the annual rate of compensation of the member immediately prior to the leave of absence."

Section 3. This act becomes effective July 1, 1999, and applies to persons retiring on or after that date.

In the General Assembly read three times and ratified this the 2nd day of June, 1999.

Became law upon approval of the Governor at 5:22 p.m. on the 8th day of June, 1999.

H.B. 1258 **SESSION LAW 1999-159**

AN ACT TO CLARIFY THE FACILITIES THAT ARE INCLUDED IN THE HEALTH CARE PERSONNEL REGISTRY; AND TO REQUIRE THAT EMPLOYERS AT HEALTH CARE FACILITIES ACCESS THE HEALTH CARE PERSONNEL REGISTRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-256 reads as rewritten:

"*§ 131E-256. Health Care Personnel Registry.*

(a) The Department shall establish and maintain a health care personnel registry containing the names of all health care personnel working in health care facilities in North Carolina who have:

(1) Been subject to findings by the Department of:

a. Neglect or abuse of a resident in a health care facility or a person to whom home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

b. Misappropriation of the property of a resident in a health care facility, as defined in subsection (b) of this section including places where home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

c. Misappropriation of the property of a health care facility.

d. Diversion of drugs belonging to a health care facility or to a patient or client.

e. Fraud against a health care facility or against a patient or client for whom the employee is providing services.

(2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The ~~health care personnel registry~~ Health Care Personnel Registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(b) For the purpose of this section, the following are considered to be 'health care facilities':

(1) Adult Care Homes as defined in G.S. 131D-2.

(2) Hospitals as defined in G.S. 131E-76.

(3) Home Care Agencies as defined in G.S. 131E-136.

(4) Nursing Pools as defined by G.S. 131E-154.2.
(5) Hospices as defined by G.S. 131E-201.
(6) Nursing Facilities as defined by G.S. 131E-255.
(7) State-Operated Facilities as ~~set forth in G.S. 122C-22.~~ defined in G.S. 122C-3(14)f.
(8) Residential Facilities ~~and Hospitals for the Mentally Ill, Developmentally Disabled, or Substance Abusers licensed pursuant to G.S. 122C-23.~~ as defined in G.S. 122C-3(14)e.
(9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.

(c) For the purpose of this section, the following are considered to be 'health care personnel':

(1) In an adult care home, an adult care personal aide who is any person who either performs or directly supervises others who perform task functions in activities of daily living which are personal functions essential for the health and well-being of residents such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
(2) A nurse aide.
(3) An in-home aide or an in-home personal care aide who provides hands-on paraprofessional services.
(4) Unlicensed assistant personnel who provide hands-on care, including, but not limited to, habilitative aides and health care technicians.

(d) Health care personnel who wish to contest findings under subdivision (a)(1) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days of the mailing of the written notice of the Department's intent to place its findings about the person in the ~~health care personnel registry.~~ Health Care Personnel Registry.

(d1) Health care personnel who wish to contest the placement of information under subdivision (a)(2) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case hearing shall be filed within 30 days of the mailing of the written notice of the Department's intent to place information about the person in the ~~health care personnel registry~~ Health Care Personnel Registry under subdivision (a)(2) of this section. Health care personnel who have filed a petition contesting the placement of information in the health care personnel registry under subdivision (a)(2) of this section are deemed to have challenged any findings made by the Department at the conclusion of its investigation.

(d2) Before hiring health care personnel into a health care facility or service, every employer at a health care facility shall access the Health Care Personnel Registry and shall note each incident of access in the appropriate business files.

(e) The Department shall provide an employer or potential employer of any person listed on the ~~health care personnel registry of~~ Health Care Personnel Registry of the nature of the finding or allegation and the status of the investigation.

(f) No person shall be liable for providing any information for the health care personnel registry if the information is provided in good faith. Neither an employer, potential employer, nor the Department shall be liable for using any information from the health care personnel registry if the information is used in good faith for the purpose of screening prospective applicants for employment or reviewing the employment status of an employee.

(g) Upon investigation and documentation, health care facilities shall ensure that the Department is notified of all substantiated allegations against health care personnel which appear to a reasonable person to be related to any act listed in subdivision (a)(1) of this section, and shall promptly report to the Department any resulting disciplinary action, demotion, or termination of employment of health care personnel.

(h) The North Carolina Medical Care Commission shall adopt, amend, and repeal all rules necessary for the implementation of this section."

Section 2. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:23 p.m. on the 8th day of June, 1999.

H.B. 1071 **SESSION LAW 1999-160**

AN ACT TO MAKE CHANGES TO THE HANDICAPPED PERSONS PROTECTION ACT, CHAPTER 168A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 168A of the General Statutes reads as rewritten:

"Chapter 168A.

"~~Handicapped~~ Persons With Disabilities Protection Act.

"§ *168A-1. Title.*

This Chapter may be cited as the North Carolina ~~Handicapped~~ Persons With Disabilities Protection Act.

"§ *168A-2. Statement of purpose.*

(a) The purpose of this Chapter is to encourage and enable all ~~handicapped people~~ persons with disabilities to participate fully to the maximum extent of their abilities in the social and economic life of the State, to engage in remunerative employment, to use available public accommodations and public services, and to otherwise pursue their rights and privileges as inhabitants of this State.

(b) The General Assembly finds that: the practice of discrimination based upon a ~~handicapping~~ disabling condition is contrary to the public interest and to the principles of freedom and equality of opportunity; the practice of discrimination on the basis of a ~~handicapping~~ disabling condition threatens the rights and proper privileges of the inhabitants of this State; and such discrimination results in a failure to realize the productive capacity of individuals to their fullest extent.

"§ *168A-3. Definitions.*

As used in this Chapter, unless the context otherwise ~~requires, the term:~~ requires:

(1) "Discriminatory practice" means any practice prohibited by this Chapter.

(2) "Employer" means any person employing 15 or more full-time employees within the State, but excluding a person whose only employees are hired to work as domestic or farm workers at that person's home or farm.

(3) "Employment agency" means a person regularly undertaking with or without compensation to procure for employees opportunities to work for an employer and includes an agent of such a person.

(4) ~~"Handicapped person"~~ "Person with a disability" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment. As used in this subdivision, the term:

a. "Physical or mental impairment" means (i) any physiological disorder or abnormal condition, cosmetic disfigurement, or anatomical loss, caused by bodily injury, birth defect or illness, affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental disorder, such as mental retardation, organic brain syndrome, mental illness, specific learning disabilities, and other developmental disabilities, but (iii) excludes (A) sexual preferences; (B) active alcoholism or drug addiction or abuse; and (C) any disorder, condition or disfigurement which is temporary in nature leaving no residual impairment.

b. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, ~~and learning.~~ learning, and working.

c. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits major life activities.

d. "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities because of the attitudes of others; or (iii) has none of the impairments defined in paragraph a. of this subdivision but is treated as having such an impairment.

(5) ~~"Handicapping~~ "Disabling condition" means any condition or characteristic that renders a person a ~~handicapped person.~~ person with a disability.

(6) "Labor organization" means an organization of any kind, an agency or employee representation committee, a group association,

or a plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(7) "Person" includes any individual, partnership, association, corporation, labor organization, legal representative, trustee, receiver, and the State and its departments, agencies, and political subdivisions.

(8) "Place of public accommodations" includes, but is not limited to, any place, facility, store, other establishment, hotel, or motel, which supplies goods or services on the premises to the public or which solicits or accepts the patronage or trade of any person.

(9) "Qualified ~~handicapped person"~~ person with a disability" means:

a. With regard to employment, a ~~handicapped~~ person with a disability who can satisfactorily perform the duties of the job in question, with or without reasonable accommodation, (i) provided that the ~~handicapped~~ person with a disability shall not be held to standards of performance different from other employees similarly employed, and (ii) further provided that the ~~handicapping~~ disabling condition does not create an unreasonable risk to the safety or health of the ~~handicapped person,~~ person with a disability, other employees, the employer's customers, or the public;

b. With regard to places of public accommodation a ~~handicapped~~ person with a disability who can benefit from the goods or services provided by the place of public accommodation; and

c. With regard to public services and public transportation a ~~handicapped~~ person with a disability who meets prerequisites for participation that are uniformly applied to all participants, such as income or residence, and that do not have the effect of discriminating against ~~the handicapped.~~ persons with a disability.

(10) "Reasonable accommodations" means:

a. With regard to employment, making reasonable physical changes in the workplace, including, but not limited to, making facilities accessible, modifying equipment and providing mechanical aids to assist in operating equipment, or making reasonable changes in the duties of the job in question that would accommodate the known ~~handicapping~~ disabling conditions of the ~~handicapped~~ person with a disability seeking the job in question by enabling him or her to satisfactorily perform the duties of that job; provided that "reasonable accommodation" does not require that an employer:

1. Hire one or more employees, other than the ~~handicapped person,~~ person with a disability, for the purpose, in whole or in part, of enabling the ~~handicapped~~ person with a disability to be employed; or
2. Reassign duties of the job in question to other employees without assigning to the ~~handicapped~~ employee with a

disability duties that would compensate for those reassigned; or

3. Reassign duties of the job in question to one or more other employees where such reassignment would increase the skill, effort or responsibility required of such other employee or employees from that required prior to the change in duties; or
4. Alter, modify, change or deviate from bona fide seniority policies or practices; or
5. Provide accommodations of a personal nature, including, but not limited to, eyeglasses, hearing aids, or prostheses, except under the same terms and conditions as such items are provided to the employer's employees generally; or
6. Make physical changes to accommodate a ~~handicapped~~ person with a disability where:
   I.For a new employee the cost of such changes would exceed five percent (5%) of the annual salary or annualized hourly wage for the job in question; or
   II.For an existing employee the cost of the changes would bring the total cost of physical beginning of the employee's employment with the employer to greater than five percent (5%) of the employee's current salary or current annualized hourly wage; or
7. Make any changes that would impose on the employer an undue hardship, provided that the costs of less than five percent (5%) of an employee's salary or annualized wage as determined in subsection (6) above shall be presumed not to be an undue hardship.

b. With regard to a place of public accommodations, making reasonable efforts to accommodate the ~~handicapping~~ disabling conditions of a ~~handicapped person,~~ person with a disability, including, but not limited to, making facilities accessible to and usable by ~~handicapped persons,~~ persons with a disability, redesigning equipment, provide mechanical aids or other assistance, or using alternative accessible locations, provided that reasonable accommodations does not require efforts which would impose an undue hardship on the entity involved.

"§ *168A-4. Reasonable accommodation duties.*

(a) A qualified ~~handicapped~~ person with a disability requesting a reasonable accommodation must apprise the employer, employment agency, labor organization, or place of public accommodation of his or her ~~handicapping~~ disabling condition, submit any necessary medical documentation, make suggestions for such possible accommodations as are known to such ~~handicapped person,~~ person with a disability, and cooperate in any ensuing discussion and evaluation aimed at determining possible or feasible accommodations.

(b) Once a qualified ~~handicapped~~ person with a disability has requested an accommodation, or if a potential accommodation is obvious in the circumstances, an employer, employment agency, labor organization or

place of public accommodation shall investigate whether there are reasonable accommodations that can be made and make reasonable accommodations as defined in G.S. 168A-3(10).

"§ *168A-5. Discrimination in employment; exemptions.*

(a) Discriminatory practices. -- It is a discriminatory practice for:

(1) An employer to fail to hire or consider for employment or promotion, to discharge, or otherwise to discriminate against a qualified ~~handicapped~~ person with a disability on the basis of a ~~handicapping~~ disabling condition with respect to compensation or the terms, conditions, or privileges of employment;

(2) An employment agency to fail or refuse to refer for employment, or otherwise to discriminate against a qualified ~~handicapped~~ person with a disability on the basis of a ~~handicapping~~ disabling condition;

(3) A person controlling an apprenticeship, on-the-job, or other training or retraining program, to discriminate against a qualified ~~handicapped~~ person with a disability on the basis of a ~~handicapping~~ disabling condition in admission to, or employment in, a program established to provide apprenticeship or other training; ~~or~~

(4) An employer or employment agency to require an applicant to identify himself as ~~handicapped~~ a person with a disability prior to a conditional offer of employment; however, any employer may invite an applicant to identify himself as ~~handicapped~~ a person with a disability in order to act affirmatively on his ~~behalf.~~ behalf; or

(5) An employer, labor organization, or employment agency to fail to meet the duties imposed on them by G.S. 168A-4(b).

(b) Exemptions. -- It is not a discriminatory action for an employer, employment agency, or labor organization:

(1) To make an employment decision on the basis of State and federal laws or regulations imposing physical, health, mental or psychological job requirements;

(2) To fail to hire, transfer or promote, or to discharge a ~~handicapped~~ person with a disability who has a history of drug abuse or who is unlawfully using drugs where the job in question is in an establishment that manufactures, distributes, dispenses, conducts research, stores, sells or otherwise handles controlled substances regulated by the North Carolina Controlled Substances Act, G.S. 90-86 et seq.;

(3) To fail to hire, transfer, or promote, or to discharge a ~~handicapped~~ person with a disability because the person has a communicable disease which would disqualify a ~~non-handicapped~~ person without a disability from similar employment;

(4) To fail to make reasonable accommodations where the ~~handicapped~~ person with a disability has not fulfilled the duties imposed by G.S. 168A-4;

(5) To inquire whether a person has the ability to perform the duties of the job in question;

(6) To require or request a person to undergo a medical examination, which may include a medical history, for the purpose of determining the person's ability or capacity to safely and

satisfactorily perform the duties of available jobs for which the person is otherwise qualified, or to aid in determining possible accommodations for a ~~handicapping~~ disabling condition, provided (i) that an offer of employment has been made on the condition that the person meets the physical and mental requirements of the job with or without reasonable accommodation; and (ii) that the examination, unless limited to determining the extent to which a person's ~~handicapping~~ disabling condition would interfere with his or her ability or capacity to safely and satisfactorily perform the duties of the the job in question or the possible accommodations for a ~~handicapping~~ disabling condition, is required of all persons conditionally offered employment for the same position regardless of ~~handicapping~~ disabling condition;

(7) To obtain medical information or to require or request a medical examination where such information or examination is for the purpose of establishing an employee health record;

(8) To administer pre-employment tests, provided that the tests (i) measure only job-related abilities, (ii) are required of all applicants for the same position unless such tests are limited to determining the extent to which the person's ~~handicapping~~ disabling condition would interfere with his or her ability to safely and satisfactorily perform the duties of the job in question or the possible accommodations for the job in question, and (iii) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the ~~handicapped person's~~ impaired sensory, manual or speaking skills of a person with a disability except when those skills are requirements of the job in question, provided that an employer shall not be liable for improper testing which was administered by a State agency acting as an employment agency.

"§ *168A-6. Discrimination in public accommodations.*

It is a discriminatory practice for a person to deny a qualified ~~handicapped~~ person with a disability the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation on the basis of a ~~handicapping~~ disabling condition. In the area of structural modifications, this section may be satisfied by compliance with the North Carolina Building Code.

"§ *168A-7. Discrimination in public service.*

It is a discriminatory practice for a State department, institution, or agency, or any political subdivision of the State or any person that contracts with the above for the delivery of public services including but not limited to education, health, social services, recreation, and rehabilitation, to refuse to provide reasonable aids and adaptations necessary for a known qualified ~~handicapped~~ person with a disability to use or benefit from existing public services operated by such entity; provided that the aids and adaptations do not impose an undue hardship on the entity involved.

"§ *168A-8. Discrimination in public transportation.*

It is a discriminatory practice for any transportation system providing transportation to the general public to fail to ensure access to and the

benefits of public transportation to a qualified ~~handicapped person;~~ person with a disability; however, public transportation systems may use alternative methods to provide transportation for ~~handicapped persons,~~ persons with a disability, as long as ~~handicapped~~ persons with a disability are offered transportation that, in relation to the transportation offered to other persons, is:

(1) In a similar geographic area of operation;
(2) For fares not greater in price;
(3) With similar or no restrictions as to trip purpose;
(4) With reasonable response time; and
(5) With similar hours of operations.

Nothing in this section shall apply to privately owned, local transit or transportation systems existing on October 1, 1985, or to interstate air carriers complying with federal regulations promulgated by the Civil Aeronautics Board and administered by the United States Department of Transportation.

"§ *168A-9. Affirmative defenses.*

Any employer may assert affirmative defenses in any action brought under this Chapter. This section shall not create any inference that an employment action which is not listed as an affirmative defense is therefore, by implication, a discriminatory practice, so long as the employment action is not otherwise prohibited by this Chapter. The following is a non-exclusive list of affirmative defenses:

(1) The ~~qualified handicapped person's~~ failure of the qualified person with a disability to comply with or meet the employer's work rules and policies or performance standards, provided that such person is not held to rules or standards different from other ~~non-handicapped~~ employees without a disability similarly employed;
(2) The ~~qualified handicapped person's~~ excessive, willful or habitual tardiness or ~~absence,~~ absence of a qualified person with a disability, provided that the standard used by the employer in determining whether such tardiness or absence is excessive is the same as that applied by the employer to ~~non-handicapped~~ employees without a disability similarly employed; or
(3) A bona fide seniority or merit system, or a system which measures earnings by quantity or quality of work or production, or differences in location of employment.

"§ *168A-10. Retaliation prohibited.*

No employer shall discharge, expel, refuse to hire, or otherwise discriminate against any person or applicant for employment, nor shall any employment agency discriminate against any person, nor shall a labor organization discriminate against any member or applicant for membership because such person has opposed any practice made a discriminatory practice by this Chapter or because he has testified, assisted or participated in any manner in proceedings under this Chapter.

"§ *168A-11. Civil action.*

(a) A ~~handicapped~~ person with a disability aggrieved by a discriminatory practice prohibited by G.S. 168A-5 through 168A-8, or a person aggrieved

by conduct prohibited by G.S. 168A-10, may bring a civil action to enforce rights granted or protected by this Chapter against any person described in G.S. 168A-5 through 168A-8 or in G.S. 168A-10 who is alleged to have committed such practices or engaged in such conduct. The action shall be commenced in superior court in the county where the alleged discriminatory practice or prohibited conduct occurred or where the plaintiff or defendant resides. Such action shall be tried to the court without a jury.

(b) Any relief granted by the court shall be limited to declaratory and injunctive relief, including orders to hire or reinstate an aggrieved person or admit such person to a labor organization. In a civil action brought to enforce provisions of this Chapter relating to employment, the court may award back pay. Any such back pay liability shall not accrue from a date more than two years prior to the filing of an action under this Chapter. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person shall operate to reduce the back pay otherwise allowable.

(c) No court shall have jurisdiction over an action filed under this Chapter where the plaintiff has commenced federal judicial or administrative proceedings under Section 503 or Section 504 of the Vocational Rehabilitation Act of 1973, 29 U.S.C. §§ 793 and 794, as amended, or federal regulations promulgated ~~thereunder,~~ under those sections; or under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., as amended, or federal regulations promulgated under that Act, involving or arising out of the facts and circumstances involved in the alleged discriminatory practice under this Chapter. If such proceedings are commenced after a civil action has been commenced under this Chapter, the State court's jurisdiction over the civil action shall end and the action shall be forthwith dismissed.

(d) In any civil action brought under this Chapter, the court, in its discretion, may award reasonable attorney's fees to the substantially prevailing party as part of costs.

"*§ 168A-12. Statute of limitations.*

A civil action regarding employment discrimination brought pursuant to this Chapter shall be commenced within 180 days after the date on which the aggrieved person became aware of or, with reasonable diligence, should have become aware of the alleged discriminatory practice or prohibited conduct. A civil action brought pursuant to this Chapter regarding any other complaint of discrimination shall be commenced within two years after the date on which the aggrieved person became aware of or, with reasonable diligence, should have become aware of the alleged discriminatory practice or prohibited conduct."

Section 2. This act becomes effective October 1, 1999, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:25 p.m. on the 8th day of June, 1999.

H.B. 255 **SESSION LAW 1999-161**

AN ACT TO AMEND THE STATUTES INVOLVING VOCATIONAL REHABILITATION IN ORDER TO COMPLY WITH FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-545.1(b)(2) reads as rewritten:

"(2) The Secretary of the Department of Health and Human Services shall adopt rules to establish eligibility for services, the nature and scope of services to be provided, standards for community rehabilitation programs and qualified personnel to provide services and conditions, criteria, and procedures under which services may be provided including financial need for services. Rules governing financial need for services shall meet the requirements set in federal law and regulations. ~~The following services shall not be conditioned on the client's or applicant's ability to pay for the cost of those services:~~

~~a. Evaluation of rehabilitation potential, except for those vocational rehabilitation services other than of a diagnostic nature that are provided under an extended evaluation of rehabilitation potential;~~

~~b. Counseling, guidance, and referral services; and~~

~~c. Placement.~~"

Section 2. G.S. 143-548 reads as rewritten:

"§ *143-548. Vocational Rehabilitation ~~Advisory~~ Council.*

(a) There is established the Vocational Rehabilitation ~~Advisory~~ Council within the Division of Vocational Rehabilitation Services to be composed of ~~15 voting members.~~ not more than 18 appointed members. Appointed members shall be voting members except where prohibited by federal law or regulations. The Director of the Division of Vocational Rehabilitation Services and one vocational rehabilitation counselor who is an employee of the Division shall serve ex officio as nonvoting members. The President Pro Tempore of the Senate shall appoint ~~five~~ six members, the Speaker of the House of Representatives shall appoint ~~five~~ six members, and the Governor shall appoint five or six members. The appointing authorities shall appoint members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities. Terms of appointment shall be as specified in subsection (d1) of this section. Appointments shall be made as follows:

(1) The ~~five~~ six members appointed by the President Pro Tempore of the Senate shall include one member recommended by the North Carolina Citizens for Business and Industry, one other representing providers of community rehabilitation services, one other who is a vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who is not an employee of the Division, one other representing the Commission on Workforce Preparedness, and two others

representing disability advocacy groups representing a cross-section of individuals with physical, cognitive, sensory, and mental disabilities. Of the ~~five~~ six members appointed by the President Pro Tempore of the Senate, three shall be individuals with disabilities;

(2) The ~~five~~ six members appointed by the Speaker of the House of Representatives shall include one member representing the business and industry sector, one other representing labor, one other representing a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c), one other representing the Department of Public Instruction, and two others representing disability advocacy groups representing a cross-section of individuals with physical, cognitive, sensory, and mental disabilities. Of the ~~five~~ six members appointed by the Speaker of the House of Representatives, three shall be individuals with disabilities; and

(3) The five or six members appointed by the Governor shall include one member representing the business and industry sector, one other representing the regional rehabilitation centers for the physically disabled, one other representing the Division's Statewide Independent Living Council, one other representing the ~~Division's~~ State's Client Assistance Program, one other representing the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are any of these projects in the State, and one other current or former applicant for or recipient of vocational rehabilitation services. ~~Three of the members appointed by the Governor shall be individuals with disabilities.~~ If five members are appointed by the Governor, three shall be individuals with disabilities. If six members are appointed by the Governor, four shall be individuals with disabilities.

(b) Repealed by Session Laws 1993, c. 248, s. 1.

(b1) Additional Qualifications. -- In addition to ensuring the qualifications for membership prescribed in subsection (a) of this section, the appointing authorities shall ensure that a majority of Council members are individuals with disabilities and are not employed by the Division of Vocational Rehabilitation Services.

(c) The Council shall elect one of the voting members of the Council as Chair of the Council. The Chair's term shall not exceed a single three-year term.

(d) The Council shall meet at least quarterly and at other times at the call of the Chair. A majority of the voting members of the Council constitutes a quorum.

(d1) Terms of Appointment. --

(1) Length of Term. -- Each member of the Council shall serve for a term of not more than three years, except that:

a. A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of ~~such~~ that term;
b. The terms of service of the members initially appointed ~~shall be~~ are as specified by the appointing authority for ~~such~~ a fewer number of years as will provide for the expiration of terms on a staggered basis and shall include the members of the existing Council to the extent possible with appropriate adjustments to their terms; ~~and~~
c. The appointing authority shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. ~~143B-16;~~ 143B-16; and
d. A member may continue to serve until a successor for the position is appointed;

(2) Number of Terms. -- No member of the Council other than the representative of the Client Assistance Program and the representative of the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, may serve more than two consecutive full terms.

(d2) Vacancies. -- Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(d3) Functions of Council. -- The Council ~~shall:~~ shall, after consulting with the Commission on Workforce Preparedness:

(1) Review, analyze, and advise the Division regarding the performance of its responsibilities under Title I of the Rehabilitation Act of 1973, ~~as amended by the Rehabilitation Act Amendments of 1992,~~ Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended, particularly responsibilities relating to:
a. Eligibility, including order of selection;
b. The extent, scope, and effectiveness of services provided; and
c. Functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving ~~rehabilitation goals and objectives under the Act;~~ employment outcomes under Title I of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq.;

(1a) In partnership with the Division:
a. Develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C) of the Rehabilitation Act of 1973, 29 U.S.C. § 721(a)(15)(C); and
b. Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner of the Rehabilitation Services Administration of the U.S. Department of Education in accordance with section 101(a)(15)(E) of the Rehabilitation Act of 1973, 29 U.S.C. § 721(a)(15)(E);

(2) Advise the Department of Health and Human Services and the ~~Division, and, at the discretion of the Department,~~ Division

regarding activities authorized to be carried out under Title I of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended and assist in the preparation of applications, the State Plan, ~~the strategic plan and~~ amendments to the plans, reports, needs assessments, and evaluations required by Title I of the ~~Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992;~~ Rehabilitation Act of 1973;

(3) To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

a. ~~The functions performed by~~ Vocational rehabilitation functions and services provided by the Department of Health and Human Services and other State agencies and ~~other~~ public and private entities responsible for ~~performing functions for~~ providing vocational rehabilitation services to individuals with ~~disabilities;~~ disabilities under the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C. § 701, et seq.; and

~~b. Vocational rehabilitation services:~~

~~1. Provided, or paid for from funds made available, under the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992, or through other public or private sources; and~~

~~2. Provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;~~

c. Employment outcomes achieved by eligible individuals receiving services under Title I of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended, including the availability of health and other employment benefits in connection with those employment outcomes;

(4) Prepare and submit an annual report to the Governor and the Commissioner of the Rehabilitation Services Administration of the U.S. Department of Education on the status of vocational rehabilitation programs operated within the State and make the report available to the public;

(5) Coordinate activities with the activities of other councils within the State, including the Division's Statewide Independent Living ~~Council,~~ Council established under section 705 of the Rehabilitation Act of 1973, 29 U.S.C. § 742, the advisory panel established under section ~~613(a)(12)~~ 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1413(a)(12), the State ~~Planning~~ Development Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, ~~and~~ the State Mental Health Planning Council established under section ~~1916(e)~~ 1914(a) of the Public Health Service Act, 42 U.S.C. § ~~300x-4(e);~~ 300x-4(e), and the Commission on Workforce Preparedness;

(6) ~~Advise the Department and provide~~ Provide for coordination and the establishment of working relationships between the Department and the Statewide Independent Living Council and centers for independent living within the State; and

(7) Perform such other functions, consistent with the purpose of Title I of the Rehabilitation Act of 1973, ~~as amended by the Rehabilitation Act Amendments of 1992,~~ Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended, as the ~~Governor and the Secretary may refer to it from time to time.~~ Council determines to be appropriate, that are comparable to other functions performed by the Council.

(d4) Resources. --

(1) The Division shall supply all necessary clerical and staff support to the Council pursuant to G.S. 143B-14(a) and ~~(d), and~~ (d). The Council shall prepare, in conjunction with the ~~Council,~~ Division, a plan for the provision of such resources as may be necessary and sufficient to carry out the functions of the Council under this Part. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(2) To the extent that there is a disagreement between the Council and the Division in regard to the resources necessary to carry out the functions of the Council as set forth in this Part, the disagreement shall be resolved by the Governor.

(3) While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the Division or any other agency of the State that would create a conflict of interest.

(d5) Member Conflict of Interest. -- No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

(e) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5. In addition, Council members may be reimbursed for personal assistance services that are necessary for members to attend Council meetings and perform Council duties. These expenses shall not exceed whichever is lower, the actual cost of the services or the Medicaid rate per day for personal assistance services, in addition to subsistence and travel expenses at the State rate for the attendant."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:26 p.m. on the 8th day of June, 1999.

S.B. 1048 **SESSION LAW 1999-162**

AN ACT TO CREATE A GRANTS COMMITTEE TO SET PRIORITIES FOR, REVIEW APPLICATIONS TO, AND AWARD GRANTS UNDER

THE FISHERY RESOURCE GRANT PROGRAM AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO THE FISHERY RESOURCE GRANT PROGRAM STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-200 reads as rewritten:

"§ *113-200. Fishery Resource Grant Program.*

(a) Creation. -- There is created within the Sea Grant College Program at The University of North Carolina, the Fishery Resource Grant Program. The purpose of the program is to work within priorities established by the ~~Marine Fisheries Commission~~ Grants Committee to protect and enhance the State's coastal fishery resources through individual grants in the following areas:

(1) New fisheries equipment or ~~gear;~~ gear.

(2) Environmental pilot studies, including water quality and fisheries ~~habitat;~~ habitat.

(3) Aquaculture or mariculture of marine dependent ~~species; or~~ species.

(4) Seafood technology.

(b) Definition; Annual Establishment of Priorities. -- For purposes of this section, the term 'fishing related industry' means any of the following: (i) commercial fishing; (ii) recreational fishing; (iii) aquaculture; (iv) mariculture; and (v) handling of seafood products, including seafood dealing and seafood processing. The ~~Commission~~ Grants Committee shall, in cooperation with ~~fishermen,~~ persons involved in fishing related industries, the Division of Marine Fisheries, and the Sea Grant College Program, establish funding priorities effective July 1 of each year for the grant program. ~~The adoption of priorities by the Commission shall not be considered rule making within the meaning of the Administrative Procedure Act.~~ In adopting priorities, the Grants Committee is exempt from Article 2A of Chapter 150B of the General Statutes. The ~~Commission~~ Grants Committee shall provide public notice of its proposed priorities at least 30 days before the ~~Commission~~ Grants Committee meeting prior to a final determination of its priorities for the fiscal year.

(c) Procedure to Solicit Proposals. -- Following the establishment of priorities by the ~~Commission,~~ Grants Committee, the Sea Grant College Program shall hold workshops within ~~each of~~ the northern, southern, central, and Pamlico coastal regions to solicit applications and to assist persons involved in fishing related industries in writing proposals. ~~For purposes of this act, the term 'fishing industry' includes persons involved in: (i) commercial or recreational fishing; (ii) aquaculture or mariculture; or (iii) handling fish products such as seafood dealers or processors.~~ The Sea Grant College Program shall encourage preproposal conferences ~~between individuals in the fisheries industry~~ among persons involved in fishing related industries and those with technical or research ~~background~~ backgrounds to work as partners in developing and writing the proposals and in writing ~~final report results.~~ reports of final results. If the grants approved by the ~~Commission~~ Grants Committee do not utilize all available funds, the

Sea Grant College Program may advertise and solicit additional applications during the applicable fiscal year.

(d) Application for Grant Program. -- An applicant may apply for grant funds to the Sea Grant College Program. For purposes of this subsection, every proposal shall include substantial involvement of ~~active North Carolina persons~~ residents of North Carolina who are actively involved in a fishing related industry. A proposal generated by a person not involved in a fishing related industry may be eligible for funding only if the proposal includes written endorsements supporting the project from persons or organizations representing fishing related industries. An application shall ~~include, but not be limited to, the following:~~ include:

(1) Name and address of the primary ~~applicant;~~ applicant.

(2) List of marine fishing licenses issued under Chapter 113 of the General Statutes to the applicant by the State of North ~~Carolina;~~ Carolina.

(3) A description of the ~~project;~~ project.

(4) A detailed statement of the projected costs of the project including the cost to plan and design the ~~project;~~ project.

(5) An explanation of how the project will enhance the fishery ~~resource;~~ resource.

(6) List of names and addresses of any other persons who will participate in the ~~project; and~~ project.

(7) Any other information necessary to make a recommendation on the application.

(e) Review Process. -- The Sea Grant College Program shall conduct an anonymous peer review of all applications for fisheries grants. At least one of the peer reviewers shall be a person involved in a fishing related industry. ~~Applications shall be~~ An application is confidential and ~~shall not be defined as~~ is not a public record ~~as defined~~ under G.S. 132-1 until after the closing date for submission of applications. Following the review of all proposals, the Sea Grant College Program shall rank proposals in order of priority and shall present the recommendations to the ~~Commission.~~ Grants Committee. ~~Any criterion used by Sea Grant in ranking proposals shall not require rule making within the meaning of the Administrative Procedure Act, but such criteria shall be public records as defined in G.S. 132-1.~~ The Sea Grant College Program may adopt criteria to rank proposals. In adopting criteria, the Sea Grant College Program is exempt from Article 2A of Chapter 150B of the General Statutes. Criteria adopted pursuant to this subsection are public records within the meaning of G.S. 132-1.

(e1) Grants Committee. -- The Grants Committee shall consist of eleven members as follows:

(1) Three employees of the Sea Grant College Program, appointed by the Director of the Sea Grant College Program.

(2) Two employees of the Division of Marine Fisheries, appointed by the Fisheries Director.

(3) Two members of the Marine Fisheries Commission, appointed by the Chair of the Marine Fisheries Commission.

(4) One member of the Northeast Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Northeast Regional Advisory Committee.

(5) One member of the Central Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Central Regional Advisory Committee.

(6) One member of the Southeast Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Southeast Regional Advisory Committee.

(7) One member of the Inland Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Inland Regional Advisory Committee.

(f) Award Process. -- ~~The Commission shall review the ranking of proposals, and if consistent with the priority rankings established under subsection (e) of this section, shall fund those proposals.~~ The Grants Committee shall evaluate all grant proposals and the results of the peer review and ranking conducted pursuant to subsection (e) of this section. On the basis of this evaluation, the Grants Committee shall determine the amount of funding, if any, to be awarded to each grant applicant. To the extent practicable, the Grants Committee shall distribute grant funding among the northern, southern, central, and Pamlico coastal regions. ~~Applications~~ Proposals for projects that include involvement ~~by fishermen~~ of persons involved in a fishing related industry ~~in the project~~ shall be accorded a priority in funding by the ~~Commission.~~ Grants Committee. Following approval by the ~~Commission,~~ Grants Committee, the Sea Grant College Program shall award the grants. ~~To the extent practicable, the Sea Grant College Program shall distribute grant funding among the northern, southern, central, and Pamlico coastal regions.~~

(g) Restrictions on Grants. -- No member of the ~~Commission~~ Grants Committee may benefit financially from a grant. If a grant recipient from a prior year has failed to perform a grant project to the satisfaction of the Sea Grant College Program or the ~~Commission,~~ Grants Committee, the ~~Sea Grant College Program~~ Grants Committee may decline to fund any new application involving the principal applicant.

(h) Grant Reports and Funding. -- Grant recipients shall provide quarterly progress reports to the Sea Grant College Program and shall submit invoices for expenditures for each quarter. Twenty-five percent (25%) of the total grant award shall be held until the grant recipient has completed the project and submitted a final written report. The remainder of the grant award shall be distributed upon approval of each quarterly report and upon verification of the expenditures.

(i) Report on Grant Program. -- The Sea Grant College Program shall report on ~~an annual basis~~ the Fishery Resource Grant Program to the Marine Fisheries Commission and the Joint Legislative Commission on Seafood and ~~Aquaculture.~~ Aquaculture no later than January 1 of each year."

Section 2. The Sea Grant College Program shall submit the first report required by G.S. 113-200(i), as amended by Section 1 of this act, no later than January 1, 2000.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st of May, 1999.

Became law upon approval of the Governor at 5:28 p.m. on the 8th day of June, 1999.

S.B. 1093 **SESSION LAW 1999-163**

AN ACT TO AMEND THE LAW TO ENSURE THAT ALL TEACHERS RECEIVE A DUTY FREE PERIOD EACH DAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-301.1 reads as rewritten:

"*§ 115C-301.1. Duty free period.*

All full-time assigned classroom teachers shall be provided a daily duty free period during regular student contact hours. The duty free period shall be provided to the maximum extent that (i) the safety and proper supervision of children may allow during regular student contact hours and (ii) insofar as funds are provided for this purpose by the General Assembly. If the safety and supervision of children does not allow a daily duty free period during regular student contact hours for a given teacher, the funds provided by the General Assembly for the duty free period for that teacher shall revert to the general fund. Principals shall not unfairly burden a given teacher by making that teacher give up his or her duty free period on an ongoing, regular basis without the consent of the teacher."

Section 2. This act becomes effective July 1, 1999, and applies to all school years beginning with the 1999-2000 school year.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:30 p.m. on the 8th day of June, 1999.

S.B. 1062 **SESSION LAW 1999-164**

AN ACT AUTHORIZING THE NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONAL CERTIFICATION BOARD TO DEFINE THE TERM CLINICAL SUPERVISOR INTERN AND AMENDING CERTIFICATION REQUIREMENTS FOR SUBSTANCE ABUSE PROFESSIONALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-113.31 reads as rewritten:

"*§ 90-113.31. Definitions.*

The following definitions shall apply in this Article:

(1) Board. -- The North Carolina Substance Abuse Professional Certification Board.

(1a) Certified clinical addictions specialist. -- A person certified by the Board to practice as a clinical addictions specialist in accordance with the provisions of this Article.

(1b) Certified clinical supervisor. -- A person certified by the Board to practice as a clinical supervisor in accordance with the provisions of this Article.

(1c) Certified residential facility director. -- A person certified by the Board to practice as a residential facility director in accordance with the provisions of this Article.

(2) Certified substance abuse counselor. -- A person certified by the Board to practice as a substance abuse counselor in accordance with the provisions of this Article.

(3) Repealed by S.L. 1997-492, s. 2.

(3a) Certified substance abuse prevention consultant. -- A person certified by the Board to practice substance abuse prevention in accordance with the provisions of this Article.

(4) Clinical supervisor intern. -- A person designated by the Board to practice as a clinical supervisor intern for a period not to exceed three years without a showing of good cause in accordance with the provisions of this Article.

(4a) Credentialing body. -- A board that licenses, certifies, or regulates a profession or practice.

(4b) Deemed status. -- Recognition by the Board of the credentials offered by a professional discipline whereby the individuals certified, licensed, or otherwise recognized by the discipline as having met the standards of a substance abuse specialist may apply individually for certification as a certified clinical addictions specialist.

(4c) Human services field. -- An area of study that focuses on the biological, psychological, and social aspects of human beings.

~~(4d) Intern. -- A person who successfully completes 300 hours of Board approved supervised practical training and a written examination in pursuit of certification as a substance abuse counselor.~~

(5) Prevention. -- The reduction, delay, or avoidance of alcohol and of other drug use behavior. "Prevention" includes the promotion of positive environments and individual strengths that contribute to personal health and well-being over an entire life and the development of strategies that encourage individuals, families, and communities to take part in assessing and changing their lifestyle and environments.

(6) Professional discipline. -- A field of study characterized by the technical, educational, and ethical standards of a profession.

(7) Substance abuse counseling. -- The assessment, evaluation, and provision of counseling to persons suffering from substance, drug, or alcohol abuse or dependency.

(7a) Substance abuse counselor intern. -- A person who successfully completes 300 hours of Board approved supervised practical training and a written examination in pursuit of certification as a substance abuse counselor.

(8) Substance abuse professional. -- A certified substance abuse counselor, certified substance abuse prevention consultant,

certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director."

Section 2. G.S. 90-113.32(b) reads as rewritten:

"(b) Until the full Board is elected or appointed pursuant to subsection (c) of this section, the Board shall consist of 16 members with one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The remaining 14 shall be those members of the current North Carolina Substance Abuse Professional Certification Board, Inc., who have terms that are unexpired as of the effective date of this Article. The initial Board shall appoint an initial Nominating and Elections Committee to fill immediate vacancies on the Board, using the process established in subsection (d) of this section. The election and appointment process of the initial Board shall result in a Board of 19 members by April 1, 1995. As these initial ~~members"~~ members' terms expire, their successors shall be appointed as described in subsection (c) of this section, until the permanent Board is established, as described in subsection (c) of this section. Time spent as an initial member counts in determining the limitation on consecutive terms prescribed in subsection (e) of this section."

Section 3. G.S. 90-113.32(c) reads as rewritten:

"(c) After the initial Board ~~members"~~ members' terms expire, the Board shall consist of the following members, all of whom shall reside in North Carolina, appointed or elected as follows:

(1) Eleven professionals certified pursuant to this Article and elected by the certified professionals, at least two of whom shall serve each of the four Division of Mental Health, Developmental Disabilities, and Substance Abuse Services regions of the State. Three members shall serve as members at large.

(2) Three members at large chosen from laypersons or other professional disciplines who have shown a special interest in the field of substance abuse, nominated by the ~~Nominations~~ Nominating and Elections Committee established by subsection (d) of this section and elected by the Board.

(3) Two members from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services, appointed by the Chief of Substance Abuse Services Section, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services, at least one of whom is from the Substance Abuse Services Section.

(4) One member of the public at large appointed by the Governor.

(5) One member of the public at large appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 and one member of the public at large appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(6) One member shall represent each of the professional disciplines granted deemed status under G.S. 90-113.41A. The member may be appointed by the professional discipline on or before a date set by the Board. If the professional discipline has at least one association in the State, the member shall be chosen from a list of nominees submitted to the association. The members appointed or elected under this subdivision shall be certified as substance abuse specialists by the professional discipline that the members represent.

No member of the General Assembly shall serve on the Board."

Section 4. G.S. 90-113.32(e) reads as rewritten:

"(e) Members of the Board shall serve for three-year terms. No Board member shall serve for more than two consecutive terms, but a person who has been a member for two consecutive terms may be reappointed after being off the Board for a period of at least one year. When a vacancy occurs in an unexpired term, the Board shall, as soon as practicable, appoint temporary members to serve until ~~the next membership election.~~ the end of the unexpired terms. Time spent as a temporary member does not count in determining the limitation on consecutive terms."

Section 5. G.S. 90-113.33 reads as rewritten:

"*§ 90-113.33. Board; powers and duties.*

The Board shall:

(1) Examine and determine the qualifications and fitness of applicants for certification to practice in this State.

(1a) Determine the qualifications and fitness of organizations applying for deemed status.

(2) Issue, renew, deny, suspend, or revoke certification to practice in this State or reprimand or otherwise discipline certificate holders in this State. Denial of an applicant's certification or the granting of certification on a probationary or other conditional status shall be subject to substantially the same rules and procedures prescribed by the Board for review and disciplinary actions against those persons holding certificates. Disciplinary actions involving a clinical addictions specialist whose certification is achieved through deemed status shall be initially heard by the specialist's credentialing body. The specialist may appeal the body's decision to the Board. The Board shall, however, have the authority to hear the initial disciplinary action involving a clinical addictions specialist.

(3) Deal with issues concerning reciprocity.

(4) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining exists.

(5) Employ the professional and clerical personnel necessary to carry out the provisions of this Article. The Board may purchase or rent necessary office space, equipment, and supplies.

(6) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a "contested case", as defined in Chapter 150B, arises.

(7) Appoint from its own membership one or more members to act as representatives of the Board at any meeting in which it considers this representation is desirable.

(8) Establish fees for applications for examination, certificates of certification and renewal, and other services provided by the Board.

(9) Adopt any rules necessary to carry out the purpose of this Article and its duties and responsibilities pursuant to this Article.

The powers and duties enumerated in this section are granted for the purposes of enabling the Board to safeguard the public health, safety, and welfare against unqualified or incompetent practitioners and are to be liberally construed to accomplish this objective. When the Board exercises its authority under this Article to discipline a person, it may, as part of the decision imposing the discipline, charge the costs of investigations and the hearing to the person disciplined."

Section 6. Article 5C of Chapter 90 of the General Statutes is amended by adding a new section to read:

"*§ 90-113.33A. Officers may administer oaths, and subpoena witnesses, records, and other materials.*

The President or other presiding officer of the Board may administer oaths to all persons appearing before it as the Board may deem necessary to perform its duties, and may summon and issue subpoenas for the appearance of any witnesses deemed necessary to testify concerning any matter to be heard before or inquired into by the Board. The Board may order that any client records, documents, or other materials concerning any matter to be heard before or inquired into by the Board shall be produced before the Board or made available for inspection, notwithstanding any other provisions of law providing for the application of any counselor-client or physician-patient privilege with respect to such records, documents, or other materials. All records, documents, or other materials compiled by the Board are subject to the provisions of G.S. 90-113.34, except that in any proceeding before the Board, record of any hearing before the Board, and notice of charges against any person certified by the Board, the Board shall withhold from public disclosure the identity of a client, including information relating to dates and places of treatment, or any other information that tends to identify the client unless the client or the client's representative has expressly consented to the disclosure. Upon written request, the Board shall revoke a subpoena if, upon a hearing, it finds that the evidence sought does not relate to a matter in issue, the subpoena does not describe the evidence with sufficient particularity, or the subpoena is invalid."

Section 7. G.S. 90-113.34 reads as rewritten:

"*§ 90-113.34. Records to be kept; copies of records.*

~~The Board shall obtain documentation of all proceedings under this Article and a record of all persons certified under it. The record~~ (a) The Board shall keep a regular record of its proceedings, together with the names of the members of the Board present, the names of the applicants for certification, and other information relevant to its actions. The Board shall cause a record to be kept that shall show the name, last known place of business, last known place of residence, and date and number of the

certificate of certification as a certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director for every living certified person. Any interested person in the State is entitled to obtain a copy of that record on application to the Board and upon payment of a reasonable charge that is based on the costs involved in providing the copy. ~~The Board shall keep a hard copy of all records.~~

(b) The Board may in a closed session receive evidence regarding the provision of substance abuse counseling or other treatment and services provided to a client who has not expressly or through implication consented to the public disclosure of such treatment as may be necessary for the protection of the rights of the client or of the accused substance abuse professional and the full presentation of relevant evidence. All records, papers, and other documents containing information collected and compiled by the Board, its members, or employees as a result of investigations, inquiries, or interviews conducted in connection with a certification or disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes, except any notice or statement of charges, or notice of hearing shall be a public record notwithstanding that it may contain information collected and compiled as a result of an investigation, inquiry, or interview. If any record, paper, or other document containing information collected and compiled by the Board as provided in this subsection is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record.

(c) Notwithstanding any provision to the contrary, the Board may, in any proceeding, record of any hearing, and notice of charges, withhold from public disclosure the identity of a client who has not expressly or through implication consented to such disclosure of treatment by the accused substance abuse professional."

Section 8. G.S. 90-113.37 reads as rewritten:

"*§ 90-113.37. Renewal of certification; lapse; revival.*

(a) Every person certified pursuant to this Article who desires to maintain certification status shall apply to the Board for a renewal of certification every other year and pay to the secretary-treasurer the prescribed fee. Renewal of certification is subject to completion of no more than 60 hours of those continuing education requirements established by the Board. A clinical supervisor shall ~~also~~ complete 15 hours of substance abuse clinical supervision ~~or~~ training prior to the certificate being renewed. Certification that is not renewed automatically lapses, unless the Board provides for the late renewal of certification upon the payment of a late fee. No late renewal shall be granted more than five years after a certification expires. A suspended certification is subject to this section's renewal requirements and may be renewed as provided in this section. This renewal does not entitle the certified person to engage in the certified activity or in any other conduct or activity in violation of the order or judgment by which the certification was suspended, until the certification is reinstated. If a certification revoked on disciplinary grounds is reinstated and requires renewal, the certified person shall pay the renewal fee and any applicable late fee.

(b) The Board shall establish the manner in which lapsed certification may be revived or extended."

Section 9. G.S. 90-113.39 reads as rewritten:

"§ *90-113.39. Standards for certification.*

The Board shall establish standards for certification of substance abuse professionals. The certification standards of the ~~International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse~~ International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated and the standards adopted by professional disciplines granted deemed status or their successor organizations may be used as guidelines for the Board's standards. The Board shall publish these required standards separately from its rules so as to provide easy access to the standards."

Section 10. G.S. 90-113.40 reads as rewritten:

"§ *90-113.40. Requirements for certification.*

(a) The Board shall issue a certificate certifying an applicant as a 'Certified Substance Abuse Counselor' or as a 'Certified Substance Abuse Prevention Consultant' if:

(1) The applicant is of good moral character.

(2) The applicant is not and has not engaged in any practice or conduct that would be grounds for disciplinary action under G.S. 90-113.44.

(3) The applicant is qualified for certification pursuant to the requirements of this Article and any rules adopted pursuant to it.

(4) The applicant has, at a minimum, a high school diploma or a high school equivalency certificate.

(5) The applicant has signed a form attesting to the intention to adhere fully to the ethical standards adopted by the Board.

(6) The applicant has completed 270 hours of Board-approved education. The Board may prescribe that a certain number of hours be in a course of study for substance abuse counseling and that a certain number of hours be in a course of study for substance abuse prevention consulting.

(7) The applicant has documented completion of a minimum of 300 hours of Supervised Practical Training and has provided a Board-approved supervision contract between the applicant and an approved supervisor.

(8) The applicant for substance abuse counselor has completed either a total of 6,000 hours of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved master's degree program, a total of 3,000 hours of supervised experience in the field, whether paid or volunteer. The applicant for substance abuse prevention consultant has completed a total of 10,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services ~~field.~~ field from a regionally accredited college or university.

(9) The applicant has successfully completed a written examination and an oral examination promulgated and administered by the Board.

(b) The Board shall issue a certificate certifying an individual as a 'Certified Clinical Supervisor' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant:

(1) ~~Has been certified as a substance abuse counselor or a clinical addictions specialist.~~
Submits proof of designation by the Board as a clinical supervisor intern.

(2) Prior to June 30, 1998, the applicant presents proof that the applicant has 12,000 hours experience in alcohol and drug abuse counseling and a bachelors degree or 8,000 hours experience in alcohol and drug abuse counseling and a minimum of a master's degree. After June 30, 1998, the applicant shall present proof that the applicant has a minimum of a master's ~~degree.~~ degree in a human services field with a clinical application from a regionally accredited college or university.

(3) Has 6,000 hours experience as a substance abuse clinical supervisor if the applicant has a bachelors degree or 4,000 hours experience if the applicant has a master's ~~degree.~~ degree in a human services field with a clinical application from a regionally accredited college or university.

(4) Has 30 hours of substance abuse clinical supervision specific education or training. These hours shall be reflective of the 12 core functions in the applicant's clinical application and practice and may also be counted toward the applicant's recertification as a substance abuse counselor.

(5) Submits a letter of reference from a professional who can attest to the applicant's supervisory competence and two letters of reference from either counselors who have been supervised by the applicant or professionals who can attest to the applicant's competence.

(6) Successfully completes a written examination administered by the Board.

(b1) The Board shall designate an applicant as a 'Clinical Supervisor Intern' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant meets the following qualifications:

(1) Submits an application, resume, and official transcript showing that the applicant has obtained a master's degree in a human services field with a clinical application from a regionally accredited college or university.

(2) Submits verification statements.

(3) Submits proof of certification as a certified substance abuse counselor or a certified clinical addictions specialist.

(4) Submits documentation establishing that the applicant has completed at least fifty percent (50%) of the required clinical supervision specific training hours as defined by the Board.

(c) The Board shall issue a certificate certifying an applicant as a 'Certified Clinical Addictions Specialist' if, in addition to meeting the requirements of subdivisions (a) (1) through (5) of this section, the applicant meets one of the following criteria:

(1) Criteria A. -- The applicant:

a. Has a minimum ~~or~~ of a master's degree with a clinical application in a human services ~~field.~~ field from a regionally accredited college or university.
b. Has two years postgraduate supervised substance abuse counseling experience.
c. Submits three letters of reference from certified clinical addictions specialists or certified substance abuse ~~professionals.~~ counselors who have obtained master's degrees.
d. Has achieved a combined score set by the Board on a master's level written and oral examination administered by the Board.
e. Has attained 180 hours of substance abuse specific training as described in G.S. 90-113.41A.
f. The applicant has documented completion of a minimum of 300 hours of supervised practical training and has provided a Board-approved supervision contract between the applicant and an approved supervisor.

(2) Criteria B. -- The applicant:
a. Has a minimum of a master's degree with a clinical application in a human services ~~field.~~ field from a regionally accredited college or university.
b. Has been certified as a substance abuse counselor.
c. Has one year of postgraduate supervised substance abuse counseling experience.
d. Has achieved a passing score on a master's level written examination administered by the Board.
e. Submits three letters of reference from certified clinical addictions specialists or certified substance abuse ~~professionals.~~ counselors who have obtained master's degrees.

(3) Criteria C. -- The applicant:
a. Has a minimum of a master's degree in a human services field with a clinical application and a substance abuse specialty from a regionally accredited college or university that includes 180 hours of substance abuse specific education and training pursuant to G.S. ~~113.41A.~~ 90-113.41A.
b. Has one year of postgraduate supervised substance abuse counseling experience.
c. Has achieved a passing score on an oral examination administered by the Board.
d. Submits three letters of reference from certified clinical addictions specialists or certified substance abuse ~~professionals.~~ counselors who have obtained master's degrees.

(4) Criteria D. -- The applicant has a substance abuse certification from a professional discipline that has been granted deemed status by the Board.

(d) The Board shall issue a certificate certifying an applicant as a 'Certified Residential Facility Director' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant:

(1) Has been certified as a substance abuse ~~counselor.~~ counselor or a clinical addictions specialist.

(2) Has 50 hours of Board approved academic or didactic management specific training or a combination thereof.

(3) Submits letters of reference from the applicant's current supervisor and a colleague or coworker.

(e) The Board shall publish from time to time information in order to provide specifics for potential applicants of an acceptable educational curriculum and the terms of acceptable supervised fieldwork experience.

(f) Effective until January 1, 2001, any person who is certified as a certified clinical supervisor or who functions by his or her job description as a certified clinical supervisor shall be qualified to supervise applicants for certified clinical supervisor.

Effective from January 1, 2001 until January 1, 2003, only a person who is certified both as a certified clinical supervisor and as a certified clinical addictions specialist shall be qualified to supervise applicants for certified clinical addictions specialist, but a person who is certified as a certified clinical supervisor or a certified clinical addictions specialist shall be qualified to supervise an applicant for certification as a certified substance abuse counselor.

Effective January 1, 2003, only a person who is certified as a certified clinical supervisor or a clinical supervisor intern shall be qualified to supervise applicants for certified clinical supervisor and certified substance abuse counselor and applicants for certified clinical addictions specialist who meet the qualifications of their credential other than through deemed status as provided in G.S. 90-113.40(c)(4)."

Section 11. G.S. 90-113.41 reads as rewritten:

"*§ 90-113.41. Examination.*

(a) Except for those individuals applying for certification under G.S. 90-113.41A, applicants for certification under this Article shall file an application at least 60 days prior to the date of examination and upon the forms and in the manner prescribed by the Board. The application shall be accompanied by the appropriate fee. No portion of this fee is refundable. Applicants who fail an examination may apply for reexamination upon the payment of another examination fee.

(b) Each applicant for certification under this Article shall be examined in an examination that is consistent with the examination requirements of the ~~International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse~~ International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated and the standards adopted by professional disciplines granted deemed ~~status.~~ status or their successor organizations.

(c) Applicants for certification shall be examined at a time and place and under the supervision that the Board determines. Examinations shall be given in this State at least twice each year.

(d) Applicants may obtain their examination scores and may review their examination papers in accordance with rules the Board ~~adopts.~~ adopts and agreements between Board-authorized test development companies."

Section 12. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:32 p.m. on the 8th day of June, 1999.

S.B. 920 **SESSION LAW 1999-165**

AN ACT TO UPDATE THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT TO ACCURATELY REFLECT THE CURRENT SCHEDULING OF CONTROLLED SUBSTANCES, AS SCHEDULED BY THE DRUG ENFORCEMENT ADMINISTRATION AND TO PROHIBIT TRAFFICKING IN METHYLENEDIOXYAMPHETAMINE (MDA) OR METHYLENEDIOXYMETHAMPHETAMINE (MDMA).

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-89 reads as rewritten:

"*§ 90-89. Schedule I controlled substances.*

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a high potential for abuse, no currently accepted medical use in the United States, or a lack of accepted safety for use in treatment under medical supervision. The following controlled substances are included in this schedule:

(1) Any of the following opiates, including the isomers, esters, ethers, salts and salts of isomers, esters, and ethers, unless specifically excepted, or listed in another schedule, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

a. Acetyl-alpha-methylfentanyl (N[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).
b. Acetylmethadol.
c. Repealed by Session Laws 1987, c. 412, s. 2.
d. Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
e. Allylprodine.
f. Alphacetylmethadol.
g. Alphameprodine.
h. Alphamethadol.
i. Alpha-methylfentanyl (N-(1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl) propionalilide; 1(1-methyl-2-phenyl-ethyl)-4-(N-propanilido) piperidine).
j. Benzethidine.
k. Betacetylmethadol.
l. Beta-hydroxfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).
m. Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide).
n. Betameprodine.
o. Betamethadol.
p. Betaprodine.

q. Clonitazene.
r. Dextromoramide.
s. Diampromide.
t. Diethylthiambutene.
u. Difenoxin.
v. Dimenoxadol.
w. Dimepheptanol.
x. Dimethylthiambutene.
y. Dioxaphetyl butyrate.
z. Dipipanone.
aa. Ethylmethylthiambutene.
bb. Etonitazene.
cc. Etoxeridine.
dd. Furethidine.
ee. Hydroxypethidine.
ff. Ketobemidone.
gg. Levomoramide.
hh. Levophenacylmorphan.
ii. 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP).
jj. 3-Methylfentanyl (N-[3-methyl-1-(2-Phenylethyl)-4-Piperidyl]-N-Phenylpropanamide).
kk. 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)-ethyl-4-piperidinyl]-N-phenylpropanamide).
ll. Morpheridine.
mm. Noracymethadol.
nn. Norlevorphanol.
oo. Normethadone.
pp. Norpipanone.
qq. Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]-propanamide.
rr. Phenadoxone.
ss. Phenampromide.
tt. 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP).
uu. Phenomorphan.
vv. Phenoperidine.
ww. Piritramide.
xx. Proheptazine.
yy. Properidine.
zz. Propiram.
aaa. Racemoramide.
bbb. Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide.
ccc. Tilidine.
ddd. Trimeperidine.

(2) Any of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted, or listed in another schedule, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Acetorphine.
b. Acetyldihydrocodeine.
c. Benzylmorphine.
d. Codeine methylbromide.
e. Codeine-N-Oxide.
f. Cyprenorphine.
g. Desomorphine.
h. Dihydromorphine.
i. Etorphine (except hydrochloride salt).
j. Heroin.
k. Hydromorphinol.
l. Methyldesorphine.
m. Methyldihydromorphine.
n. Morphine methylbromide.
o. Morphine methylsulfonate.
p. Morphine-N-Oxide.
q. Myrophine.
r. Nicocodeine.
s. Nicomorphine.
t. Normorphine.
u. Pholcodine.
v. Thebacon.
w. Drotebanol.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers, unless specifically excepted, or listed in another schedule, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. 3, 4-methylenedioxyamphetamine.
b. 5-methoxy-3, 4-methylenedioxyamphetamine.
c. 3, 4-Methylenedioxymethamphetamine (MDMA).
d. 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4-(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, and MDEA).
e. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4-(methylenedioxy)phenethylamine, and N-hydroxy MDA).
f. 3, 4, 5-trimethoxyamphetamine.
g. Alpha-ethyltryptamine. Some trade or other names: etryptamine, Monase, alpha-ethyl-1H-indole-3-ethanamine, 3-(2-aminobutyl) indole, alpha-ET, and AET.
h. Bufotenine.
i. Diethyltryptamine.
j. Dimethyltryptamine.
k. 4-methyl-2, 5-dimethoxyamphetamine.
l. Ibogaine.
m. Lysergic acid diethylamide.
n. Mescaline.

o. Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seed or extracts.
p. N-ethyl-3-piperidyl benzilate.
q. N-methyl-3-piperidyl benzilate.
r. Psilocybin.
s. Psilocin.
t. 2, 5-dimethoxyamphetamine.
u. 2, 5-dimethoxy-4-ethylamphetamine. Some trade or other names: DOET.
v. 4-bromo-2, 5-dimethoxyamphetamine.
w. 4-methoxyamphetamine.
x. Ethylamine analog of phencyclidine. Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.
y. Pyrrolidine analog of phencyclidine. Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.
z. Thiophene analog of phencyclidine. Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.
aa. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine; Some other names: TCPy.
bb. Parahexyl.
cc. 4-Bromo-2, 5-Dimethoxyphenethylamine.

(4) Any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, unless specifically excepted or unless listed in another schedule:
a. Mecloqualone.
b. Methaqualone.

(5) Stimulants. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
a. Aminorex. Some trade or other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenly-2-oxazolamine.
b. Cathinone. Some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone.
c. Fenethylline.

d. Methcathinone. Some trade or other names: 2-(methylamino)-propiophenone, alpha-(methylamino)propiophenone, 2-(methylamino)-1-phenylpropan-1-one, alpha-N-methylaminopropiophenone, monomethylproprion, ephedrone, N-methylcathinone, methylcathinone, AL-464, AL-422, AL-463, and UR1432.

e. (+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine] (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline).

f. N,N-dimethylamphetamine. Some other names: N,N,alpha-trimethylbenzeneethaneamine; N,N,alpha-trimethylphenethylamine.

g. N-ethylamphetamine."

Section 2. G.S. 90-90 reads as rewritten:

"*§ 90-90. Schedule II controlled substances.*

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a high potential for abuse; currently accepted medical use in the United States, or currently accepted medical use with severe restrictions; and the abuse of the substance may lead to severe psychic or physical dependence. The following controlled substances are included in this schedule:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, unless specifically excepted or unless listed in another schedule:

a. Opium and opiate, and any salt, compound, derivative, or preparation of opium and opiate, excluding apomorphine, ~~thebaine-derived butorphanol,~~ nalbuphine, dextrorphan, naloxone, naltrexone and nalmefene, and their respective salts, but including the following:

1. Raw opium.
2. Opium extracts.
3. Opium fluid extracts.
4. Powdered opium.
5. Granulated opium.
6. Tincture of opium.
7. Codeine.
8. Ethylmorphine.
9. Etorphine hydrochloride.
10. Hydrocodone.
11. Hydromorphone.
12. Metopon.
13. Morphine.
14. Oxycodone.
15. Oxymorphone.
16. Thebaine.

b. Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph 1 of this subdivision, except that these substances shall not include the isoquinoline alkaloids of opium.
c. Opium poppy and poppy straw.
d. Cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocanized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.
e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation unless specifically exempted or listed in other schedules:
a. Alfentanil.
b. Alphaprodine.
c. Anileridine.
d. Bezitramide.
e. Carfentanil.
f. Dihydrocodeine.
g. Diphenoxylate.
h. Fentanyl.
i. Isomethadone.
j. Levo-alphacetylmethadol. Some trade or other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM.
k. Levomethorphan.
l. Levorphanol.
m. Metazocine.
n. Methadone.
o. Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
p. Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid.
q. Pethidine.
r. Pethidine -- Intermediate -- A, 4-cyano-1-methyl-4-phenylpiperidine.
s. Pethidine -- Intermediate -- B, ethyl-4-phenylpiperidine-4-carboxylate.
t Pethidine -- Intermediate -- C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

u. Phenazocine.
v. Piminodine.
w. Racemethorphan.
x. Racemorphan.
y. Remifentanil.
z. Sufentanil.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system unless specifically exempted or listed in another schedule:
a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
b. Phenmetrazine and its salts.
c. Methamphetamine, including its salts, isomers, and salts of isomers.
d. Methylphenidate.
e. Phenylacetone. Some trade or other names: Phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, unless specifically exempted by the Commission or listed in another schedule:
a. Amobarbital
b. Glutethimide
c. Repealed by Session Laws 1983, c. 695, s. 2.
d. Pentobarbital
e. Phencyclidine
f. Phencyclidine immediate precursors:
a. 1-Phenylcyclohexylamine
b. 1-Piperidinocyclohexanecarbonitrile (PCC)
g. Secobarbital.

(5) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers, unless specifically excepted, or listed in another schedule, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
a. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. [Some other names:(6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d] pyra n-1-o1, or (-)-delta-9-(trans)-tetrahydrocannabinol].
b. Nabilone [Another name for nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one]."

Section 3. G.S. 90-92(a) reads as rewritten:

"(a) This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a low potential for abuse relative to the substances listed in Schedule III of this Article; currently accepted medical use in the United States; and limited physical or pyschological dependence relative to the substances listed in Schedule III of this Article. The following controlled substances are included in this schedule:

(1) Depressants. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Alprazolam.
b. Barbital.
c. Bromazepam.
d. Camazepam.
e. Chloral betaine.
f. Chloral hydrate.
g. Chlordiazepoxide.
h. Clobazam.
i. Clonazepam.
j. Clorazepate.
k. Clotiazepam.
l. Cloxazolam.
m. Delorazepam.
n. Diazepam.
o. Estazolam.
p. Ethchlorvynol.
q. Ethinamate.
r. Ethyl loflazepate.
s. Fludiazepam.
t. Flunitrazepam.
u. Flurazepam.
v. Gamma Hydroxybutyric Acid.
w. Halazepam.
x. Haloxazolam.
y. Ketazolam.
z. Loprazolam.
aa. Lorazepam.
bb. Lormetazepam.
cc. Mebutamate.
dd. Medazepam.
ee. Meprobamate.
ff. Methohexital.
gg. Methylphenobarbital (mephobarbital).
hh. Midazolam.
ii. Nimetazepam.

jj. Nitrazepam.
kk. Nordiazepam.
ll. Oxazepam.
mm. Oxazolam.
nn. Paraldehyde.
oo. Petrichloral.
pp. Phenobarbital.
qq. Pinazepam.
rr. Prazepam.
ss. Quazepam.
tt. Temazepam.
uu. Tetrazepam.
vv. Triazolam.
ww. Zolpidem.

(2) Any material, compound, mixture, or preparation which contains any of the following substances, including its salts, or isomers and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
a. Fenfluramine.
b. Pentazocine.

(3) Stimulants. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
a. Diethylpropion.
b. Mazindol.
c. Pemoline (including organometallic complexes and chelates thereof).
d. Phentermine.
e. Cathine.
f. Fencamfamin.
g. Fenproporex.
h. Mefenorex.
i. Sibutramine.

(4) Other Substances. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:
a. Dextropropoxyphene (Alpha-(plus)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).
b. Pipradrol.
c. SPA ((-)-1-dimethylamino-1, 2-diphenylethane).
d. Butorphanol.

(5) Narcotic Drugs. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or

preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

a. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

b. Buprenorphine."

Section 4. G.S. 90-95(h) reads as rewritten:

"(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article.

(1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as 'trafficking in marijuana' and if the quantity of such substance involved:

a. Is in excess of 10 pounds, but less than 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of 25 months and a maximum term of 30 months in the State's prison and shall be fined not less than five thousand dollars ($5,000);

b. Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

d. Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars ($200,000).

(2) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of methaqualone, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in methaqualone' and if the quantity of such substance or mixture involved:

a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum

term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars ($200,000).

(3) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or any coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, and any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocainized coca leaves or any extraction of coca leaves which does not contain cocaine) or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as 'trafficking in cocaine' and if the quantity of such substance or mixture involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than one hundred thousand dollars ($100,000);

c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined at least two hundred fifty thousand dollars ($250,000).

(3a) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of amphetamine, its salts, optical isomers, and salts of its optical isomers or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in amphetamine' and if the quantity of such substance or mixture involved:

a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such

person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars ($200,000).

(3b) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of methamphetamine shall be guilty of a felony which felony shall be known as 'trafficking in methamphetamine' and if the quantity of such substance or mixture involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than one hundred thousand dollars ($100,000);

c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined at least two hundred fifty thousand dollars ($250,000).

(4) Any person who sells, manufactures, delivers, transports, or possesses four grams or more of opium or opiate, or any salt, compound, derivative, or preparation of opium or opiate (except apomorphine, nalbuphine, analoxone and naltrexone and their respective salts), including heroin, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in opium or heroin' and if the quantity of such controlled substance or mixture involved:

a. Is four grams or more, but less than 14 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

b. Is 14 grams or more, but less than 28 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of 117 months in the State's prison and shall be fined not less than one hundred thousand dollars ($100,000);

c. Is 28 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of

225 months and a maximum term of 279 months in the State's prison and shall be fined not less than five hundred thousand dollars ($500,000).

(4a) Any person who sells, manufactures, delivers, transports, or possesses 100 tablets, capsules, or other dosage units, or the equivalent quantity, or more, of Lysergic Acid Diethylamide, or any mixture containing such substance, shall be guilty of a felony, which felony shall be known as 'trafficking in Lysergic Acid Diethylamide'. If the quantity of such substance or mixture involved:

a. Is 100 or more dosage units, or equivalent quantity, but less than 500 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

b. Is 500 or more dosage units, or equivalent quantity, but less than 1,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

c. Is 1,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars ($200,000).

(4b) Any person who sells, manufactures, delivers, transports, or possesses 100 or more tablets, capsules, or other dosage units, or 28 grams or more of 3,4-methylenedioxyamphetamine (MDA), including its salts, isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine (MDMA), including its salts, isomers, and salts of isomers, or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as 'trafficking in MDA/MDMA.' If the quantity of the substance or mixture involved:

a. Is 100 or more tablets, capsules, or other dosage units, but less than 500 tablets, capsules, or other dosage units, or 28 grams or more, but less than 200 grams, the person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars ($25,000);

b. Is 500 or more tablets, capsules, or other dosage units, but less than 1,000 tablets, capsules, or other dosage units, or 200 grams or more, but less than 400 grams, the person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84

months in the State's prison and shall be fined not less than fifty thousand dollars ($50,000);

c. Is 1,000 or more tablets, capsules, or other dosage units, or 400 grams or more, the person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred fifty thousand dollars ($250,000).

(5) Except as provided in this subdivision, a person being sentenced under this subsection may not receive a suspended sentence or be placed on probation. The sentencing judge may reduce the fine, or impose a prison term less than the applicable minimum prison term provided by this subsection, or suspend the prison term imposed and place a person on probation when such person has, to the best of his knowledge, provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals if the sentencing judge enters in the record a finding that the person to be sentenced has rendered such substantial assistance.

(6) Sentences imposed pursuant to this subsection shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder."

Section 5. Sections 1 through 3 of this act are effective when the act becomes law. Section 4 of this act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:35 p.m. on the 8th day of June, 1999.

S.B. 871 **SESSION LAW 1999-166**

AN ACT TO AMEND THE LAW REGARDING THE OBLIGATION OF DECEDENTS' ESTATES FOR FUNERAL EXPENSES AND RELATED EXPENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-19-8 reads as rewritten:

"*§ 28A-19-8. Funeral expenses of decedent.*

(a) Any person authorized under G.S. 130A-420 to dispose of a decedent's body may bind a decedent's estate for funeral expenses and related charges, including interest and finance charges, in accordance with this section, including the execution and delivery on behalf of the estate of any agreements, promissory notes, and other instruments relating to the estate. Whether or not a personal representative of the estate has been appointed at the time the expenses are incurred, funeral ~~Funeral~~ expenses of a ~~decedent~~ decedent, together with interest or finance charges if financed by the funeral establishment or a third-party creditor, shall be considered as an obligation of the estate of the decedent and the decedent's estate shall be

primarily liable ~~therefor.~~ for those expenses to the funeral establishment that provided the funeral service, to any third-party creditor that finances the payment of those expenses, or to any other person described in this section who has paid such expenses.

(b) The provisions of this section shall not affect the application of ~~G.S. 28A-19-6.~~ G.S. 28A-19-6 or G.S. 130A-420."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:37 p.m. on the 8th day of June, 1999.

S.B. 638 **SESSION LAW 1999-167**

AN ACT TO REDEFINE "EMPLOYEE" AND "EMPLOYER" IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-21(10) reads as rewritten:

"(10) "Employee" shall mean any person who is regularly employed in the service of and whose salary or compensation is paid by the employer as defined in subdivision (11) of this section, whether employed or appointed for stated terms or otherwise, except teachers in the public schools and except such employees who hold office by popular election as are not required to devote a major portion of their time to the duties of their office. "Employee" also means all full-time, paid firemen who are employed by any fire department that serves a city or county or any part of a city or county and that is supported in whole or in part by municipal or county funds. In all cases of doubt the Board of Trustees shall decide who is an employee."

Section 2. G.S. 128-21(11) reads as rewritten:

"(11) "Employer" shall mean any county, incorporated city or town, the board of alcoholic control of any county or incorporated city or town, the North Carolina League of Municipalities, and the State Association of County Commissioners. ~~"Employer" shall also mean any separate, juristic political subdivision of the State as may be approved by the Board of Trustees upon the advice of the Attorney General.~~ "Employer" also means any fire department that serves a city or county or any part of a city or county and that is supported in whole or in part by municipal or county funds."

Section 3. The Board of Trustees of the North Carolina Local Governmental Employees' Retirement System through the Office of the Attorney General shall request a letter of determination or ruling from the Internal Revenue Service, United States Department of Treasury, as to whether the status of the North Carolina Local Governmental Employees' Retirement System as a governmental plan would be adversely affected by the participation of employees affected by this legislation. The request shall

be made to the Internal Revenue Service no later than 30 days after the effective date of this act. Fire departments affected by this legislation are eligible for participation in the North Carolina Local Governmental Employees' Retirement System upon the first day of the calendar quarter following receipt of a favorable letter of determination or ruling.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:38 p.m. on the 8th day of June, 1999.

S.B. 344 **SESSION LAW 1999-168**

AN ACT TO PROVIDE EXPANDED ACCESS TO SPECIALTY CARE IN MANAGED CARE PLANS.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes is amended by adding the following section to read:

"*§ 58-3-223. Managed care access to specialist care.*

(a) Each insurer offering a health benefit plan that does not allow direct access to all in-plan specialists shall develop and maintain written policies and procedures by which an insured may receive an extended or standing referral to an in-plan specialist. The procedure shall provide for an extended or standing referral to a specialist if the insured has a serious or chronic degenerative, disabling, or life-threatening disease or condition, which in the opinion of the insured's primary care physician, in consultation with the specialist, requires ongoing specialty care. The extended or standing referral shall be for a period not to exceed 12 months and shall be made under a treatment plan coordinated with the insurer in consultation with the primary care physician, the specialist, and the insured or the insured's designee.

(b) As used in this section:

(1) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina Department of Health and Human Services or the United States Department of Health and Human Services, or any successor agency, or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

a. Accident.

b. Credit.

c. Disability income.
d. Long-term care or nursing home care.
e. Medicare supplement.
f. Specified disease.
g. Dental or vision.
h. Coverage issued as a supplement to liability insurance.
i. Workers' compensation.
j. Medical payments under automobile or homeowners.
k. Hospital income or indemnity.
l. Insurance under which benefits are payable with or without regard to fault and that are statutorily required to be contained in any liability policy or equivalent self-insurance.

(2) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation under Article 65 of this Chapter, or a health maintenance organization under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter.

(3) 'Serious or chronic degenerative, disabling, or life-threatening disease or condition' means a disease or condition, which in the opinion of the patient's treating primary care physician and specialist, requires frequent and periodic monitoring and consultation with the specialist on an ongoing basis."

Section 2. This act is effective when it becomes law and applies to health benefit plans that are delivered, issued for delivery, or renewed on and after January 1, 2000. For purposes of this act, renewal of a health benefit policy, contract, or plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 5:39 p.m. on the 8th day of June, 1999.

H.B. 975 **SESSION LAW 1999-169**

AN ACT TO CLARIFY THAT SERVICES PROVIDED THROUGH THE STATEWIDE AUTOMATED VICTIM ASSISTANCE AND NOTIFICATION SYSTEM ARE SUBJECT TO THE EXEMPTIONS FROM DAMAGE CLAIMS AND OTHER GROUNDS FOR RELIEF PROVIDED FOR BY THE VICTIMS' RIGHTS ACT.

The General Assembly of North Carolina enacts:

Section 1. Effective July 1, 1999, G.S. 15A-839 reads as rewritten:

"*§ 15A-839. No money damages.*

This ~~Article does~~ Article, including the provision of a service pursuant to this Article through the Statewide Automated Victim Assistance and Notification System established by the Governor's Crime Commission, does

not create a claim for damages against the State, a county, or a municipality, or any of its agencies, instrumentalities, officers, or employees."

Section 2. Effective July 1, 1999, G.S. 15A-840 reads as rewritten:

"*§ 15A-840. No ground for relief.*

The failure or inability of any person to provide a right or service under this ~~Article~~ Article, including a service provided through the Statewide Automated Victim Assistance and Notification System established by the Governor's Crime Commission, may not be used by a defendant in a criminal case, by an inmate, by any other accused, or by any victim, as a ground for relief in any criminal or civil proceeding, except in suits for a writ of mandamus by the victim."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of June, 1999.

Became law upon approval of the Governor at 1:05 p.m. on the 9th day of June, 1999.

H.B. 820 **SESSION LAW 1999-170**

AN ACT PROVIDING THAT STATE EMPLOYEES AND PUBLIC SCHOOL EMPLOYEES MAY SHARE LEAVE VOLUNTARILY.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"*§ 126-8.3. Voluntary shared leave.*

The State Personnel Commission, in cooperation with the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency or public school. For the purposes of this section, the term 'immediate family member' means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships."

Section 2. Article 2 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"*§ 115C-12.2. Voluntary shared leave.*

The State Board of Education, in cooperation with the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school or State agency. For the purposes of this section, the term 'immediate family member' means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of June, 1999.

Became law upon approval of the Governor at 1:10 p.m. on the 9th day of June, 1999.

H.B. 1286 **SESSION LAW 1999-171**

AN ACT TO MODIFY THE EXEMPTION FROM THE "MASS GATHERINGS" STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-252(b), as amended by Section 1 of S.L. 1999-3, reads as rewritten:

"(b) The provisions of this Part do not apply to a permanent ~~stadiums~~ stadium with an adjacent ~~campgrounds~~ campground that ~~host~~ hosts an annual ~~events attracting~~ event that has, within the previous five years, attracted crowds in excess of 70,000 people. The term 'stadium' includes speedways and dragways."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of June, 1999.

Became law upon approval of the Governor at 1:10 p.m. on the 9th day of June, 1999.

H.B. 1009 **SESSION LAW 1999-172**

AN ACT TO PROVIDE FUNDS FOR AGRICULTURAL RESEARCH BY INCREASING THE ASSESSMENT ON FERTILIZER, COMMERCIAL FEED, OR THEIR INGREDIENTS.

The General Assembly of North Carolina enacts:

Section 1G.S. 106-568.2 reads as rewritten:

"*§ 106-568.2. Policy as to referendum and assessment.*

It is declared to be in the public interest and highly advantageous to the economic development of the State that farmers, producers, and growers of agricultural commodities using commercial feed and/or fertilizers or their ingredients be permitted by referendum held among themselves to levy upon themselves an assessment of ~~ten cents (10¢)~~ fifteen cents (15¢) per ton on mixed fertilizers, commercial feed, and their ingredients (except lime and land plaster) to provide funds through the Agricultural Foundation to supplement the established program of agricultural research and dissemination of research facts.

It is further declared to be in the public interest and highly advantageous to the economic development of the State that tobacco producers be permitted by referendum to levy upon themselves an assessment not to exceed ten cents (10¢) per hundred pounds of tobacco marketed to provide funds through the North Carolina Tobacco Research Commission for research and dissemination of research facts concerning tobacco."

Section 2. G.S. 106-568.8(a) reads as rewritten:

"(a) Fertilizer and feed assessments. In the event two-thirds or more of the eligible farmers and producers participating in said referendum vote in favor of such assessment, then said assessment shall be collected for a period of six years under rules, regulations, and methods as provided for in this Article. The assessments shall be added to the wholesale purchase price

of each ton of fertilizer, commercial feed, and/or their ingredients (except lime and land plaster) by the manufacturer of said fertilizer and feed. The assessment so collected shall be paid by the manufacturer into the hands of the North Carolina Commissioner of Agriculture on the same tonnage and at the same time and in the same manner as prescribed for the reporting of the inspection tax on commercial feeds and fertilizers as prescribed by G.S. 106-284.40 and 106-671. The Commissioner shall then remit ~~said ten cents (10¢) per ton~~ the assessment for the total tonnage as reported by all manufacturers of commercial feeds, fertilizers, and their ingredients to the treasurer of the North Carolina Agricultural Foundation, Inc., who shall disburse such funds for the purposes herein enumerated and not inconsistent with provisions contained in the charter and bylaws of the North Carolina Agricultural Foundation, Inc. Signed copies of the receipts for such remittances made by the Commissioner to the treasurer of the North Carolina Agricultural Foundation, Inc., shall be furnished the Commissioner of Agriculture, the North Carolina Farm Bureau Federation, and the North Carolina State Grange. The treasurer of the North Carolina Agricultural Foundation, Inc., shall make an annual report at each annual meeting of the Foundation directors of total receipts and disbursements for the year and shall file a copy of said report with the Commissioner of Agriculture and shall make available a copy of said report for publication.

It shall be the duty of the Commissioner of Agriculture to audit and check the remittances of ~~ten cents (10¢) per ton~~ the assessment by the manufacturer to the Commissioner in the same manner and at the same time as audits and checks are made of remittances of the inspection tax on commercial feeds and fertilizers.

Any commercial feed excluded from the payment of the inspection fee required by G.S. 106-284.40 shall nevertheless be subject to the assessment provided for by this Article and to quarterly tonnage reports to the Department of Agriculture and Consumer Services as provided for in G.S. 106-284.40(c)."

Section 3. This act is effective when it becomes law; however, the increased assessment of five cents (5¢) per ton under G.S. 106-568.2, as amended by Section 1 of this act, shall not be levied nor collected before January 1, 2001.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

Became law upon approval of the Governor at 2:02 p.m. on the 9th day of June, 1999.

H.B. 520 **SESSION LAW 1999-173**

AN ACT TO ALLOW THE TOWN OF FLAT ROCK TO BUILD A FACILITY FOR A PUBLIC ENTERPRISE AND THEN CONVEY IT TO THE CITY OF HENDERSONVILLE WITHOUT OPERATING IT.

The General Assembly of North Carolina enacts:

Section 1. The Village of Flat Rock may construct a facility for a public enterprise as defined by G.S. 160A-311 and convey it to the City of Hendersonville without operating it.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law on the date it was ratified.

H.B. 615 **SESSION LAW 1999-174**

AN ACT TO ALLOW THE CITY OF ELIZABETH CITY TO REGULATE THE SPEED OF VESSELS WITHIN THE CITY.

The General Assembly of North Carolina enacts:

Section 1. A city may adopt ordinances to regulate and control the speed of vessels in waterways within its boundaries or within its extraterritorial jurisdiction, as that term is used in Article 19 of Chapter 160A of the General Statutes.

Section 2. If the City of Elizabeth City adopts ordinances to regulate and control the speed of vessels as authorized in Section 1 of this act, the City of Elizabeth City, or its designee, shall place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for such system adopted by the Wildlife Resources Commission. All markers regulating and controlling the speed of vessels shall be buoys or floating signs placed in the water and must be sufficient in number and size as to give adequate warning of the speed limit to the vessels approaching from various directions.

Section 3. This act applies only to the City of Elizabeth City.

Section 4. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law on the date it was ratified.

S.B. 314 **SESSION LAW 1999-175**

AN ACT TO INCORPORATE THE TOWN OF MINERAL SPRINGS.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Mineral Springs is enacted to read:

"CHARTER OF TOWN OF MINERAL SPRINGS.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Mineral Springs, which area is described in Section 2.1 of this Charter, are a body corporate and politic under the name 'Town of Mineral Springs'. Under that name they have all the powers, duties, rights,

privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Mineral Springs are as follows:

BEGINNING at a point in the southern boundary of Waxhaw Highway (State Highway 75) at its intersection with the southwestern boundary of Western Union School Road (SR1143); thence westerly with the southern boundary of Waxhaw Highway approximately 2,270 feet to its intersection with the southerly extension of the western property boundary line of parcel 001 as shown on tax map 5-030; thence northerly with said property boundary line approximately 1,620 feet to the northern boundary of the S.A.R.R. right-of-way; thence easterly with said boundary approximately 92 feet to its intersection with the western property boundary line of parcel 012D as shown on tax map 6-084; thence northerly then northeasterly and then northwesterly with said parcel to a point being the southeastern corner of parcel 012E as shown on tax map 6-084; thence westerly then northerly and then northwesterly with said parcel until it intersects the eastern boundary of Collins Road (SR1326); thence northeasterly approximately 890 feet with said boundary to its intersection with the southeastern property boundary line of parcel 008 as shown on tax map 6-084; thence northeasterly approximately 1,504 feet, then northerly approximately 475 feet, and then westerly approximately 1,146 feet with said parcel to a point in the western boundary of Collins Road (SR1326); thence with the western boundary of Collins Road in a northerly direction to its intersection with the southern boundary of McNeely Road (SR1325); thence with the southern boundary of McNeely Road in a westerly direction to its intersection with the southerly extension of the western property boundary line of parcel 002A as shown on tax map 6-084; thence northerly approximately 260 feet with said property boundary line to its intersection with the southwestern corner of parcel 002 as shown on tax map 6-084; thence northerly approximately 260 feet with the western boundary of said parcel to its intersection with the northern boundary of Pleasant Grove Road (SR1327); thence with the northern boundary of Pleasant Grove Road in an easterly direction approximately 300 feet to its intersection with the western property boundary line of parcel 008A as shown on tax map 6-081; thence northerly with said property boundary line approximately 730 feet to the southwestern corner of parcel 007 as shown on tax map 6-081; thence easterly approximately 1,377 feet, then northerly approximately 620 feet with said parcel to a point in the southern property boundary of parcel 001 as shown on tax map 6-081; thence easterly approximately 683 feet, then northerly approximately 295 feet, then northerly approximately 798 feet, and then westerly approximately 857 feet with said parcel to a point in the western boundary of Waxhaw-Indian Trail Road (SR1008); thence with the western boundary of Waxhaw-Indian Trail Road in a northerly direction approximately 2,475 feet to its intersection with the western extension of the northern boundary of Jeanne Drive (private road); thence easterly approximately 825 feet with said road boundary to its intersection with the northwestern property boundary line of

parcel 015C as shown on tax map 6-081; thence northeasterly with said property boundary line approximately 1,646 feet to the western corner of parcel 016 as shown on tax map 6-081; thence easterly with the northwestern boundary of said parcel to its intersection with the Bates Branch, being the western boundary of parcel 001B as shown on tax map 6-054; thence following the branch along said boundary in a northerly then an easterly direction to the northeast corner of said parcel; thence southeasterly with said parcel approximately 190 feet to a point, being the western corners of parcels 013 and 014 as shown on tax map 6-054; thence along the southeastern property boundary line of parcel 047 as shown on tax map 6-054 as follows: northeasterly approximately 1,105 feet, then northeasterly approximately 450 feet, then westerly approximately 450 feet, then northeasterly approximately 450 feet, then northwesterly approximately 20 feet, and then northeasterly approximately 550 feet to a point in the centerline of Shannon Road (SR1328) where said centerline intersects the southwesterly extension of the western boundary of parcel 055 as shown on tax map 6-054; thence northeasterly approximately 625 feet, then easterly approximately 580 feet with said parcel until it intersects with the northernmost corner of parcel 048 as shown on tax map 6-054; thence with said parcel as follows: southerly approximately 627 feet, then easterly approximately 196 feet, then southerly approximately 1,093 feet, then southerly approximately 565 feet, then southwesterly approximately 394 feet, then southeasterly with the northeastern boundary of Shannon Road (SR1328) approximately 550 feet to its intersection with the northern boundary of Pleasant Grove Road (SR1327), then continuing in the same direction across Pleasant Grove Road, then southwesterly with the southeastern boundary of Pleasant Grove Road approximately 215 feet, then southwesterly approximately 550 feet, then southeasterly approximately 1,691 feet, then northeasterly approximately 728 feet, then southeasterly with the northern boundary of Pleasant Grove Road approximately 860 feet, then southeasterly approximately 130 feet, then northerly approximately 1,050 feet, and then northerly approximately 1,105 feet to the westernmost corner property boundary of parcel 051 as shown on tax map 6-054; thence with said parcel southeasterly approximately 1,325 feet, then easterly approximately 895 feet to a point in the western property boundary line of parcel 001A as shown on tax map 6-033; thence with said parcel as follows: southerly approximately 1,300 feet, then northeasterly approximately 482 feet, then southeasterly approximately 244 feet, then northeasterly approximately 386 feet, then easterly approximately 27 feet, then easterly approximately 992 feet, then southerly approximately 668 feet, then westerly approximately 25 feet, then southwesterly approximately 127 feet, and then northeasterly approximately 1,218 feet to a point in an unnamed branch of Little Twelvemile Creek; then meandering northerly with said branch approximately 1,700 feet to the southwest corner property boundary of parcel 054 as shown on tax map 6-036; thence northeasterly with the western property boundary line of parcel 054, then northeasterly with the northwestern property boundary line of parcel 055, then easterly with the northern property boundary line of parcel 056, then southeasterly with the northeastern property boundary line of parcel 057, then southerly with the

eastern property boundary line of parcel 058, then southwesterly with the eastern property boundary line of parcels 059 through 060, then southerly with the eastern property boundary line of parcels 061 through 068, then southeasterly with the northeastern property boundary line of parcels 069 through 074, and then southeasterly with the northeastern property boundary line of parcel 075 to its intersection with the northwestern boundary of Potter Road (SR1162), the aforementioned parcels 054 through 075 inclusive as shown on tax map 6-036; thence northeasterly along the northwestern boundary of Potter Road approximately 65 feet to the intersection of the extension of the southern boundary of Roscoe Howey Road (SR1332); thence easterly along the southern boundary of Roscoe Howey Road approximately 890 feet to the intersection with the Little Twelvemile Creek; thence generally southeasterly with the Little Twelvemile Creek as it forms the western boundary of parcel 2A as shown on tax map 6-015 to its intersection with the northern property boundary line of parcel 025 as shown on tax map 6-015; thence with said parcel southwesterly approximately 660 feet, then southerly approximately 1,950 feet to the intersection of its western property boundary line with the northern boundary of the S.A.R.R. right-of-way, thence northeasterly with the northern boundary of the S.A.R.R. right-of-way approximately 3,990 feet to its intersection with the western property boundary line of parcel 003 as shown on tax map 9-429; thence with said parcel northeasterly approximately 295 feet, then southeasterly approximately 970 feet, then southerly approximately 1,155 feet, then southwesterly approximately 106 feet, then southerly approximately 810 feet to the intersection of the southern extension of its eastern property boundary line with the southern boundary of Old Waxhaw-Monroe Road (SR1150); thence southwesterly with the southern boundary of Old Waxhaw-Monroe Road approximately 265 feet to its intersection with the property boundary line of parcel 001B as shown on tax map 9-417; thence with said parcel southeasterly approximately 130 feet, then northeasterly approximately 809 feet, then northeasterly approximately 628 feet, then easterly approximately 307 feet, then northwesterly approximately 169 feet, then northeasterly approximately 134 feet, then southeasterly approximately 830 feet, then southeasterly approximately 658 feet, then southwesterly approximately 294 feet, then southeasterly approximately 866 feet, then southerly approximately 221 feet, then southerly approximately 109 feet, then southeasterly approximately 237 feet, then southerly approximately 49 feet, then easterly approximately 193 feet, then northerly approximately 894 feet, then northeasterly approximately 606 feet, then southeasterly approximately 129 feet, then southeasterly approximately 120 feet, then northeasterly approximately 1,428 feet, then northerly approximately 661 feet, then northwesterly approximately 320 feet, then northwesterly approximately 140 feet, then northeasterly approximately 286 feet, then easterly approximately 967 feet, then southerly approximately 568 feet, then southwesterly approximately 112 feet, then southwesterly approximately 259 feet, then southerly approximately 561 feet, then southeasterly approximately 734 feet, then southeasterly approximately 597 feet, then southerly approximately 1 foot, then southerly approximately 138 feet, then westerly approximately 165 feet, then northwesterly approximately

118 feet, then northwesterly approximately 82 feet, then northwesterly approximately 998 feet, then westerly approximately 1,277 feet, then southerly approximately 559 feet to the intersection of the property boundary line with the northern boundary of Doster Road (SR1149), then with the northern boundary of Doster Road easterly approximately 145 feet to its intersection with the northern extension of the eastern property boundary line, then southerly approximately 81 feet, then southerly approximately 1,546 feet, then northwesterly approximately 1,066 feet, then northerly approximately 594 feet, then northeasterly approximately 443 feet, and then northerly approximately 231 feet to the intersection of the property boundary line with the southern boundary of Doster Road; thence westerly with the southern boundary of Doster Road approximately 690 feet to its intersection with the western property boundary line of parcel 001 as shown on tax map 9-417; thence with said parcel southwesterly approximately 2,455 feet, and then westerly approximately 1,960 feet to the intersection of the property boundary line with the eastern property boundary line of parcel 43 as shown on tax map 6-018; thence with said parcel southerly approximately 820 feet, then northwesterly approximately 475 feet to the intersection of the property boundary line with the northern boundary of Crow Road (SR1147), then northwesterly with the northern boundary of Crow Road approximately 990 feet to its intersection with the property boundary line, then northwesterly approximately 125 feet, and then southwesterly approximately 937 feet to the northeast corner of the property boundary line of parcel 006 as shown on tax map 6-017; thence with said parcel southwesterly approximately 194 feet, then northwesterly approximately 35 feet, then southwesterly approximately 40 feet, then southeasterly approximately 40 feet, then southwesterly approximately 980 feet, then southeasterly approximately 1,193 feet, then southwesterly approximately 676 feet, then northwesterly approximately 822 feet, and then northwesterly approximately 770 feet to the intersection of the southern property boundary line with the eastern property boundary line of parcel 002B as shown on tax map 6-017; thence with said parcel southerly approximately 30 feet, and then northeasterly approximately 1,537 feet to the intersection of the southern property boundary line with the eastern property boundary line of parcel 001 as shown on tax map 6-017; thence with said parcel southwesterly approximately 167 feet, and then northwesterly approximately 571 feet to the intersection of the southern property line with the southeastern boundary of Potter Road (SR1162); thence southwesterly with the southeastern boundary of Potter Road approximately 2,080 feet to its intersection with the southerly extension of the western property boundary line of parcel 019J as shown on tax map 5-006; thence northerly with said property boundary line approximately 637 feet to its intersection with the southern property boundary line of parcel 015 as shown on tax map 5-006; thence westerly with said property boundary line approximately 390 feet to its intersection with the southeastern corner of parcel 001A as shown on tax map 5-003; thence with said parcel westerly approximately 717 feet, then westerly approximately 1,591 feet, then westerly approximately 197 feet, then northwesterly approximately 360 feet, then northwesterly approximately 714 feet, then northwesterly approximately 337 feet, and then northerly approximately 300 feet to the intersection of the property boundary line with

the northernmost corner of parcel 009G as shown on tax map 5-006; thence with said parcel southwesterly approximately 462 feet, then westerly approximately 530 feet, and then westerly approximately 246 feet to the intersection of the property boundary line with the eastern property boundary line of parcel 053 as shown on tax map 5-033; thence southerly with said property boundary line approximately 1,000 feet to the intersection of its southern extension with the centerline of Western Union School Road (SR1143); thence from the intersection of the centerline of Western Union Road with the northern extension of the western property boundary line of parcel 010 as shown on tax map 5-006 southerly with said property boundary line approximately 590 feet to its intersection with the northwest corner of the property boundary line of parcel 011 as shown on tax map 5-006; thence southerly with said property boundary line approximately 208 feet to its intersection with the northeast corner of the property boundary line of parcel 188 as shown on tax map 5-033; thence with said parcel westerly approximately 2,090 feet, and then northerly approximately 2,345 feet to the intersection of the property boundary line with the southern boundary of Western Union School Road; thence with the southern boundary of Western Union School Road in a northwesterly direction approximately 960 feet to the point and place of BEGINNING.

EXCEPTED and EXCLUDED from the above described corporate boundary is all of that tract of land consisting of parcel 001 as shown on tax map 6-036, comprising 37.160 acres, and more commonly known as the Pleasant Grove Campground.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Mineral Springs is the Town Council, which has six members and the Mayor.

"Section 3.2. **Temporary Officers.** Until the initial election in 1999 provided for by Section 4.1 of this Charter, Frederick Becker III is hereby appointed Mayor, and William Henry Blythe, Jr., Gerald Countryman, Lundeen Cureton, Thomas Kalin, Alice Mabe, and Peggy Neill are hereby appointed members of the Town Council, and they shall possess and may exercise the powers granted to the Mayor and Town Council until their successors are elected or appointed and qualify pursuant to this Charter.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council. Except as provided by this section, members are elected to a four-year term of office. In 1999, the three candidates receiving the highest numbers of votes are elected to four-year terms, and the three candidates receiving the next highest numbers of votes are elected to two-year terms. In 2001 and each two years thereafter, three members are elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. The Mayor shall be elected in 1999 and each two years thereafter for a two-year term.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Town officers shall be elected on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Mineral Springs operates under the Mayor-Council Plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Budget Ordinance; Municipal Taxes.** From and after the effective date of this act, the citizens and property in the Town of Mineral Springs shall be subject to municipal taxes levied for the year beginning July 1, 1999, and for that purpose the Town shall obtain from Union County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1999-2000, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance, and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 1999. If this act is ratified before July 1, 1999, the Town may adopt a budget ordinance for fiscal year 1998-1999 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical, but no ad valorem taxes may be levied for the 1998-1999 fiscal year."

Section 2. On a date established by the Union County Board of Elections no earlier than 60 nor later than 120 days after this bill becomes law, the Union County Board of Elections shall conduct a special election for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Mineral Springs, the question of whether such area shall be incorporated as the Town of Mineral Springs.

Section 3. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Mineral Springs".

Section 4. In the election, if a majority of the votes are cast "For the Incorporation of the Town of Mineral Springs", Sections 1 through 3 of this act become effective on the date that the Union County Board of Elections certifies the results of the election. Otherwise, Section 1 of this act has no force and effect.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law on the date it was ratified.

S.B. 385 **SESSION LAW 1999-176**

AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO PERMIT THE USE OF PUBLIC SCHOOL ACTIVITY BUSES TO SERVE THE TRANSPORTATION NEEDS OF THE U. S. OPEN GOLF TOURNAMENT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 66-58 or any other provision of law, the Moore County Board of Education may enter into a contract, under terms and conditions set by the Moore County Board of Education, that permits public school activity buses to be used from June 14, 1999, through June 20, 1999, for activities related to the U.S. Open Golf Tournament to be held in Moore County.

State funds shall not be used for the use and operation of buses under this act.

Neither the State of North Carolina nor the Moore County Schools shall incur any liability for any damages resulting from the use and operation of buses under this act. Pinehurst, Inc., shall carry liability insurance covering the use and operation of buses under this act.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law on the date it was ratified.

S.B. 474 **SESSION LAW 1999-177**

AN ACT TO MODIFY THE DISTRIBUTION OF THE PROFITS FROM THE HENDERSONVILLE LOCAL ALCOHOLIC BEVERAGE CONTROL SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 954 of the 1955 Session Laws as amended by Section 1 of Chapter 105 of the 1995 Session Laws reads as rewritten:

"Sec. 6. The net profits derived from the operation of a liquor control store in the City of Hendersonville, after deducting the necessary funds for law enforcement as provided in ~~G.S. 18B-805(c)(2),~~ G.S. 18B-805(c)(2) and after deducting the necessary funds for treatment of alcoholism or substance abuse or for research or education on alcoholism or substance abuse as provided in G.S. 18B-805(c)(3) (but not to exceed twelve percent (12%)), shall be divided as follows: Fifty per cent (50%) for municipality of Hendersonville. Twenty-five per cent (25%) to Governing Body of the County of Henderson. One per cent (1%) to the City Library. Twenty-four per cent (24%) to the Henderson County Public Schools. Such funds shall be subject to appropriation by the Governing Bodies of the City of Hendersonville and the County of Henderson for any lawful purpose."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law on the date it was ratified.

S.B. 347 **SESSION LAW 1999-178**

AN ACT TO REQUIRE HEALTH BENEFIT PLANS TO COVER NONFORMULARY DRUGS AND DEVICES WHEN MEDICALLY NECESSARY.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes is amended by adding the following section to read:

"*§ 58-3-221. Access to nonformulary prescription drugs.*

(a) If an insurer maintains one or more closed formularies for prescription drugs or devices, then the insurer shall do all of the following:

(1) Develop the formulary or formularies in consultation with and with the approval of a pharmacy and therapeutics committee, which shall include participating providers who are licensed to prescribe prescription drugs or devices.

(2) Make available to participating providers and pharmacists the complete drugs or devices formulary or formularies maintained by the insurer including a list of the devices and prescription drugs on the formulary by major therapeutic category that specifies whether a particular drug or device is preferred over other drugs or devices.

(3) Establish and maintain an expeditious process or procedure that allows an enrollee to obtain, without penalty or additional cost-sharing beyond that provided for in the health benefit plan, coverage for a specific nonformulary drug or device determined to be medically necessary and appropriate by the participating physician without prior approval from the insurer, after the participating physician notifies the insurer that:

a. Either (i) the formulary alternatives have been ineffective in the treatment of the enrollee's disease or condition, or (ii) the formulary alternatives cause or are reasonably expected by the physician to cause a harmful or adverse clinical reaction in the enrollee; and

b. Either (i) the drug is prescribed in accordance with any applicable clinical protocol of the insurer for the prescribing of the drug, or (ii) the drug has been approved as an exception to the clinical protocol pursuant to the insurer's exception procedure.

(b) An insurer may not void a contract or refuse to renew a contract between the insurer and a prescribing provider because the prescribing provider has prescribed a medically necessary and appropriate nonformulary drug or device as provided in this section.

(c) As used in this section:

(1) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina Department of Health and Human Services or the United States Department of Health and Human Services, or any successor agency, or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

a. Accident.
b. Credit.
c. Disability income.
d. Long-term care or nursing home care.
e. Medicare supplement.
f. Specified disease.
g. Dental or vision.
h. Coverage issued as a supplement to liability insurance.
i. Workers' compensation.
j. Medical payments under automobile or homeowners.
k. Hospital income or indemnity.
l. Insurance under which benefits are payable with or without regard to fault and that are statutorily required to be contained in any liability policy or equivalent self-insurance.

(2) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation organized under Article 65 of this Chapter, a health maintenance organization organized under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter."

Section 2. This act is effective when it becomes law and applies to health benefit plans that are delivered, issued for delivery, or renewed on and after January 1, 2000. For purposes of this act, renewal of a health benefit policy, contract, or plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 3rd day of June, 1999.

Became law upon approval of the Governor at 6:53 p.m. on the 14th day of June, 1999.

H.B. 219 **SESSION LAW 1999-179**

AN ACT TO AMEND CHAPTERS 54B AND 54C OF THE GENERAL STATUTES TO MAKE TECHNICAL CHANGES TO THE LAW

GOVERNING STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS AND SAVINGS BANKS AND TO INCREASE THE PERMITTED PERCENTAGE OF COMMERCIAL LOANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54B-152(a) reads as rewritten:

"(a) Real property is deemed ~~encumbered~~ unencumbered within the meaning of this Chapter unless the security instrument thereon establishes a first lien upon such real property or interest therein."

Section 2. G.S. 54C-18 is repealed.

Section 3. G.S. 54C-143 reads as rewritten:

"*§ 54C-143. Commercial lending.*

~~Subject to any rules that the Administrator deems appropriate, a savings bank may lend and invest no more than fifteen percent (15%) of its total assets in commercial loans. A commercial loan is for business, commercial, corporate, and agricultural purposes.~~

A savings bank may lend and invest in commercial loans in an aggregate amount that either (i) does not exceed fifteen percent (15%) of its total assets; or (ii) equals a percentage of its total assets greater than fifteen percent (15%), if approved by the Administrator upon written request of the savings bank. In considering a request for an increased limit, the Administrator shall take into consideration the commercial lending expertise of the management and the overall risk profile of the savings bank making the request. For the purposes of this section, 'commercial loan' means a loan for business, commercial, corporate, or agricultural purposes."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of June, 1999.

Became law upon approval of the Governor at 6:55 p.m. on the 14th day of June, 1999.

H.B. 476 **SESSION LAW 1999-180**

AN ACT CONCERNING THE GRANT OF POWERS TO ELECTRIC MEMBERSHIP CORPORATIONS REGARDING SUBSIDIARY ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 117-18 is amended by adding a new subdivision to read:

"(14) As to electric membership corporations, to conduct the activities permitted by G.S. 117-18.1."

Section 2. Article 2 of Chapter 117 of the General Statutes is amended by adding a new section to read:

"*§ 117-18.1. Subsidiary business activities.*

(a) Electric membership corporations may form, organize, acquire, hold, dispose of, and operate any interest up to and including full controlling interest in separate business entities that provide energy services and products, telecommunications services and products, water, and wastewater

collection and treatment, so long as those other business entities meet all of the following conditions:

(1) They are not financed with loans or grants from the Rural Utilities Service (RUS) of the United States Department of Agriculture (USDA) or the USDA or with similar financing from any successor agency. This limitation shall not apply to RUS or USDA loans or grants, or loans or grants from successor agencies, for water or wastewater collection and treatment projects.

(2) They are subject to all taxes, specifically including federal and State income taxes, levied against business entities of the same structure and engaged in the same activities.

(3) They fully compensate the electric membership corporation for the use of personnel, services, equipment, or tangible and intangible property, the greater of (i) a competitive price, which is a price comparable with prices generally being charged at the time in arms length transactions in the same market, or (ii) the electric membership corporation's fully distributed costs, which shall include all direct and indirect costs, including cost of capital incurred in providing the personnel, services, equipment, tangible property, or intangible property in question. The value of real property shall include the intangible value of not having to purchase the real property being used, and the value of the identification with the EMC that will exist because of the use of the particular real property. Should the Utilities Commission, upon complaint showing reasonable grounds for investigation, find after investigation, that the charges for those transactions between the electric membership corporation and the other business entity do not conform with the provisions of this subdivision, the Utilities Commission is empowered to direct the electric membership corporation to adjust those charges to comply with the provisions of this subdivision. If the electric membership corporation does not comply with the Utilities Commission's directive, then the Utilities Commission is empowered to direct the electric membership corporation to divest its interest in the other business entity. For purposes of enforcing this subdivision, members of the Utilities Commission, the Utilities Commission staff, and the Public Staff are authorized to inspect the books and records of such other business entities and the electric membership corporations. The Utilities Commission shall have the authority to adopt rules and reporting requirements to enforce this subdivision. The provisions of G.S. 62-310(a), 62-311, 62-312, 62-313, 62-314, 62-315, 62-316, 62-326, and 62-327 shall apply to electric membership corporations with respect to the application of this subdivision.

(4) They are organized and operated pursuant to Chapter 55 or Chapter 57C of the General Statutes.

(5) They do not receive from an electric membership corporation any investment, loan, guarantee, or pledge of assets in an amount that,

in the aggregate, exceeds ten percent (10%) of the assets of that electric membership corporation.

(b) An electric membership corporation may not form or organize a separate business entity to engage in activities involving the distribution, storage, or sale of oil, as defined in G.S. 143-215.77(8), specifically including liquefied petroleum gases, but may acquire, hold, dispose of, and operate any interest in an existing business entity already engaged in these activities, subject to the other provisions of this section.

(c) No director, or spouse of a director, of an electric membership corporation may be employed or have any financial interest in any separate business entity formed, organized, acquired, held, or operated by an electric membership corporation pursuant to the provisions of this section."

Section 3. G.S. 117-30(a) reads as rewritten:

"(a) In the event it is ascertained by the Rural Electrification Authority that the community or communities referred to in the foregoing section ~~[G.S. 117-29]~~ G.S. 117-29 are in need of telephone service and that there is a sufficient number of persons to be served to justify such services, and the telephone company serving in the area in which the community or communities are located is unwilling to provide such service, a telephone membership corporation may be organized by such community or communities in the same manner that electric membership corporations may be formed under Article 2 of this Chapter, and all of the provisions of said Article shall be applicable to the formation of telephone membership corporations and such corporations shall have all the authority, powers and duties of such a corporation when formed under the provisions of said Article; except that the provisions of G.S. 117-8, 117-9, 117-10.1, 117-10.2, 117-16.1, 117-18(14), 117-18.1, 117-19 and 117-24 shall not be applicable to the organization of a telephone membership corporation, and except that such corporations so formed for the express purpose of providing telephone service necessary to serve the community or communities prescribed in the application may also provide the community or communities prescribed in the application with any communication service for the transmission of voice, sounds, signals, pictures, writing or signs of all kinds through the use of electricity or the electromagnetic spectrum between the transmitting and receiving apparatus, together with any telecommunications service requiring band-width capacity, including, but not limited to community antenna and cable television services, and including all lines, wires, cables, radio, light, electromagnetic impulse and all facilities, systems or other means used in the rendition of such services, but not including message telegram service or radio broadcasting services or facilities within the meaning of section 3(o) of the Federal Communications Act of 1934, as amended (47 USC § 153(o)) and except that such corporation so formed shall have no authority to engage in any other business. Provided, that the references in Article 2 of this Chapter to "power lines" or "energy" as to such telephone membership corporations shall be construed to mean telephone lines, broadband cables and lines, telephone service and broadband communications services. Provided further, that nothing herein shall be construed to authorize any telephone membership corporation organized hereunder to duplicate any line or lines, systems or

other means by which adequate telephone service is being furnished; or to build or to construct a telephone line, or telephone lines, or telephone systems, or otherwise to provide facilities or means of furnishing telephone service to any person, community, town or city then being adequately served by a telephone company, corporation or system; or to provide telephone service in an unserved area while any telephone company, corporation or system is acting in good faith and with reasonable diligence in arranging to provide adequate telephone service to such person, community, town or city."

Section 4. Article 3 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"*§ 62-53. Electric membership corporation subsidiaries.*

In addition to any other authority granted to the Commission in this Chapter, the Commission shall have the authority to regulate electric membership corporations as provided in G.S. 117-18.1."

Section 5. G.S. 62-302 reads as rewritten:

"*§ 62-302. Regulatory fee.*

(a) Fee Imposed. -- It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public. It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53.

(b) Public Utility Rate. --

(1) For the 1989-90 fiscal year, the regulatory fee shall be the greater of (i) twelve hundredths percent (0.12%) of each public utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents ($6.25) each quarter.

(2) For fiscal years beginning on or after July 1, 1990, the regulatory fee shall be the greater of (i) a percentage rate, established by the General Assembly, of each public utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents ($6.25) each quarter.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose a percentage rate of the regulatory fee. For fiscal years beginning in an odd-numbered year, that proposed rate shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143-11. For fiscal years beginning in an even-numbered year, that proposed rate shall be included in a special budget message the Governor shall submit to the General Assembly. The General Assembly shall set the percentage rate of the regulatory fee by law.

The percentage rate may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Commission and the Public Staff for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated increase or decrease in North Carolina jurisdictional revenues.

(3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).

(4) As used in this section, the term "North Carolina jurisdictional revenues" means all revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.

(b1) Electric Membership Corporation Rate. -- For the purpose of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, beginning with the 1999-2000 fiscal year the North Carolina Electric Membership Corporation shall pay an annual flat fee to the fund established in subsection (d) of this section. The amount of the annual fee shall be as established by the General Assembly by law.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose the amount of the regulatory fee. For fiscal years beginning in an odd-numbered year, the proposed amount shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143-11. For fiscal years beginning in an even-numbered year, the proposed amount shall be included in a special budget message the Governor shall submit to the General Assembly.

The amount of the fee proposed by the Commission may not exceed the amount necessary to defray the estimated cost of the operations of the Commission and the Public Staff for the regulation of the electric membership corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of the Commission and the Public Staff for the regulation of the electric membership corporations for the upcoming fiscal year. The fee will be assessed on a quarterly basis and will be due and payable to the Commission on or before the 15th day of the second month following the end of each quarter.

(c) When Due. -- The regulatory fee imposed under this ~~section~~ section, except the fee imposed by subsection (b1) of this section, is due and payable to the Commission on or before the 15th day of the second month following

the end of each quarter. Every public utility subject to the regulatory fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Commission may by rule require. Receipts shall be reported on an accrual basis.

If a public utility's report for the first quarter of any fiscal year shows that application of the percentage rate would yield a quarterly fee of twenty-five dollars ($25.00) or less, the public utility shall pay an estimated fee for the entire fiscal year in the amount of twenty-five dollars ($25.00). If, after payment of the estimated fee, the public utility's subsequent returns show that application of the percentage rate would yield quarterly fees that total more than twenty-five dollars ($25.00) for the entire fiscal year, the public utility shall pay the cumulative amount of the fee resulting from application of the percentage rate, to the extent it exceeds the amount of fees, other than any surcharge, previously paid.

(d) Use of Proceeds. -- A special fund in the office of State Treasurer, the Utilities Commission and Public Staff Fund, is created. The fees collected pursuant to this section and all other funds received by the Commission or the Public Staff, except for the clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a), shall be deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed in an interest bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly.

The Utilities Commission and Public Staff Fund shall be subject to the provisions of the Executive Budget Act except that no unexpended surplus of the Fund shall revert to the General Fund. All funds credited to the Utilities Commission and Public Staff Fund shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public as provided by this ~~Chapter.~~ Chapter and in regulating electric membership corporations as provided in G.S. 117-18.1.

The clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a) shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Section 6. G.S. 62-300 is amended by adding a new subsection to read:

"(e) The provisions of this section shall apply with respect to the regulation of electric membership corporations as provided in G.S. 117-18.1."

Section 7. Four years after this act becomes law, the Utilities Commission shall report to the Joint Legislative Utility Review Committee on activities the Commission has conducted pursuant to the provisions of this act. The report shall contain the Utilities Commission's recommendations, if any, with regard to any action to be taken by the General Assembly.

Section 8. It is the intent of the General Assembly that both the election of board members and the hiring of employees of electric membership corporations should reflect the diversity of the communities those corporations serve. To those ends, the General Assembly directs that each electric membership corporation of North Carolina shall report minority representation on its board and in its workforce to the North Carolina Association of Electric Cooperatives so that the Association can report on minority representation to the Joint Legislative Commission on Governmental Operations. The North Carolina Association of Electric Cooperatives shall make an interim report on minority representation on the boards and workforces of the electric membership corporations two years after this act becomes law, and shall make a final report on that subject four years after this act becomes law.

Section 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 11:45 a.m. on the 16th day of June, 1999.

H.B. 426 **SESSION LAW 1999-181**

AN ACT TO AUTHORIZE THE CITIES OF GREENSBORO, HIGH POINT, AND ROCKY MOUNT TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 216 of the 1997 Session Laws reads as rewritten:

"Section 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

'§ *160A-300.1. Use of traffic control photographic systems.*

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subdivision (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established by the North Carolina Department of Transportation. Any traffic control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(b1) Any traffic control photographic system installed on a street or highway must be identified by appropriate advance warning signs conspicuously posted not more than 300 feet from the location of the traffic control photographic system. All advance warning signs shall be consistent with a statewide standard adopted by the Department of Transportation in

conjunction with local governments authorized to install traffic control photographic systems.

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:
   a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or
   b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the ~~vehicle.~~ vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.'"

Section 2. Section 2 of Chapter 216 of the 1997 Session Laws, as amended by S.L. 1999-17, reads as rewritten:

"Section 2. This act applies to the Cities of ~~Charlotte and Fayetteville only.~~ Charlotte, Fayetteville, Greensboro, High Point, and Rocky Mount only."

Section 3. This act becomes effective January 1, 2000.

In the General Assembly read three times and ratified this the 16th day of June, 1999.

Became law on the date it was ratified.

H.B. 514 **SESSION LAW 1999-182**

AN ACT TO AUTHORIZE THE CITIES OF WILMINGTON, GREENVILLE, AND GREENSBORO, AND THE TOWNS OF HUNTERSVILLE, MATTHEWS, AND CORNELIUS TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION, AND TO PREVENT INSURANCE POINTS FROM BEING ASSESSED.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 216 of the 1997 Session Laws reads as rewritten:

"Section 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ *160A-300.1. Use of traffic control photographic systems.*

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subdivision (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established by the North Carolina Department of Transportation. Any traffic control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(b1) Any traffic control photographic system installed on a street or highway must be identified by appropriate advance warning signs conspicuously posted not more than 300 feet from the location of the traffic control photographic system. All advance warning signs shall be consistent with a statewide standard adopted by the Department of Transportation in conjunction with local governments authorized to install traffic control photographic systems.

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person.

The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:

a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or

b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the ~~vehicle.~~ vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.'"

Section 2. Section 2 of Chapter 216 of the 1997 Session Laws, as amended by Chapter 17 of the 1999 Session Laws, reads as rewritten:

"Section 2. This act applies to the Cities of ~~Charlotte and Fayetteville only.~~ Charlotte, Fayetteville, Greenville, Wilmington, and Greensboro, and the Towns of Huntersville, Matthews, and Cornelius only."

Section 3. This act becomes effective January 1, 2000.

In the General Assembly read three times and ratified this the 16th day of June, 1999.

Became law on the date it was ratified.

S.B. 65 **SESSION LAW 1999-183**

AN ACT TO ENHANCE MOTOR VEHICLE OCCUPANT RESTRAINT SAFETY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-135.2A(a) reads as rewritten:

"(a) Each front seat occupant who is 16 years of age or older and each driver of a passenger motor vehicle manufactured with seat ~~safety~~ belts ~~in compliance with Federal Motor Vehicle Safety Standard No. 208 must~~ shall have ~~such~~ a ~~safety~~ seat belt properly fastened about his or her body at all times when the vehicle is in forward motion on a street or highway in this State. ~~Each driver of a passenger motor vehicle manufactured with seat safety belts in compliance with Federal Motor Vehicle Safety Standard No. 208, who is transporting in the front seat a person who is (i) under 16 years of age and (ii) not required to be restrained in accordance with G.S. 20-137.1, must have the person secured by such a safety belt at all times when the vehicle is operated in forward motion on a street or highway in this State. Persons required to be restrained in accordance with G.S 20-11 and G.S. 20-137.1 must be secured as required by those sections.~~"

Section 2. G.S. 20-135.2A(e) reads as rewritten:

"(e) ~~Any person violating this section during the period from October 1, 1985, to December 31, 1986, shall be given a warning of violation only. Thereafter, any person violating~~ Any driver or passenger who fails to wear a seat belt as required by this section shall have committed an infraction and shall pay a ~~fine~~ penalty of twenty-five dollars ($25.00). ~~An infraction is an unlawful act that is not a crime. The procedure for charging and trying an infraction is the same as for a misdemeanor, but conviction~~ Conviction of an infraction under this section has no consequence other than payment of a ~~fine.~~ penalty. A person ~~convicted of an infraction~~ found responsible for a violation of this section may not be assessed court costs."

Section 3. G.S. 20-135.2A(h) is repealed.

Section 4. G.S. 20-135.2B(c) reads as rewritten:

"(c) Any person violating this section shall have committed an infraction and shall pay a ~~fine~~ penalty of twenty-five dollars ($25.00). ~~An infraction is an unlawful act that is not a crime. The procedure for charging and trying an infraction is the same as for a misdemeanor, but conviction~~ Conviction of an infraction under this section has no consequence other than payment of a ~~fine.~~ penalty. A person ~~convicted of an infraction~~ found responsible for a violation of this section may not be assessed court costs."

Section 5. Section 3 of Chapter 672 of the 1993 Session Laws is repealed.

Section 6. G.S. 20-137.1(a) reads as rewritten:

"(a) Every driver who is transporting ~~a child~~ one or more passengers of less than ~~12~~ 16 years of age shall have ~~the child~~ all such passengers properly secured in a child passenger restraint system ~~(car safety seat)~~ or seat belt which meets federal standards applicable at the time of its manufacture. ~~The requirements of this section may be met when the child is four years of age or older by securing the child in a seat safety belt.~~

(a1) A child less than five years of age and less than 40 pounds in weight shall be properly secured in a weight-appropriate child passenger restraint system. In vehicles equipped with an active passenger-side front air bag, if the vehicle has a rear seat, a child less than five years of age and less than 40 pounds in weight shall be properly secured in a rear seat, unless the child restraint system is designed for use with air bags."

Section 7. G.S. 20-137.1(c) reads as rewritten:

"(c) Any ~~person~~ driver ~~convicted of violating~~ found responsible for a violation of this section may be punished by a ~~fine~~ penalty not to exceed twenty-five dollars ~~($25.00).~~ ($25.00), even when more than one child less than 16 years of age was not properly secured in a restraint system. Conviction of an infraction under this section has no consequence other than payment of a penalty. No driver charged under this section for failure to have a child under ~~four~~ five years of age properly secured in a restraint system shall be convicted if he produces at the time of his trial proof satisfactory to the court that he has subsequently acquired an approved child passenger restraint system."

Section 8. This act becomes effective October 1, 1999. G.S. 20-137.1(a1), as enacted in Section 6 of this act does not apply to persons who reach the age of four years old before October 1, 1999.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law upon approval of the Governor at 9:53 a.m. on the 17th day of June, 1999.

S.B. 839 **SESSION LAW 1999-184**

AN ACT TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO REQUIRE INTERIM CLAIMS PAYMENTS TO PROVIDERS IN THE EVENT CLAIMS CANNOT BE TIMELY PROCESSED DUE TO YEAR 2000 COMPUTER PROBLEMS.

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 2000, Article 2 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-2-235. Interim claims payments authorized.*

(a) Every insurer shall report to the Commissioner if it cannot process claims submitted by health care providers in a timely manner due to problems associated with the change in years from 1999 to 2000. The report shall be made within five business days of determining that the problem exists.

(b) The Commissioner shall require an insurer to make interim payments to health care providers if the Commissioner determines, after investigation, that (i) the insurer cannot make claims payments in a timely manner in accordance with the insurer's contractual agreement with the health care provider, or if no contractual agreement exists, within 30 days of receipt of a clean claim and (ii) the insurer's inability to process claims is the result of Year 2000-related problems in the insurer's electronic systems. In determining the amount of the interim payment, the Commissioner shall use the same methodology, if any, that is applicable and required under federal law for determining the amount of interim payments to health care providers in the event of a Year 2000-related disruption in an insurer's claims processing systems. If there is no applicable federal law governing interim payments in the event of such Year 2000-related problems, the interim payment made by the insurer shall be:

(1) Not less than eighty percent (80%) of the amount paid to the health care provider during the same calendar month of 1999; or

(2) If the health care provider did not submit claims for services to, or was not under contract with, the insurer during the same calendar month in 1999, an amount equal to the average of the most recent three months of claims payable to the health care provider by that insurer.

(c) An interim payment is not considered payment in full unless it equals or exceeds the actual amount due and payable to the health care provider. If an insurer makes an interim payment that exceeds the amount owed to the provider during any payment period, the insurer may recover the excess payment through a remittance adjustment by offsetting current or future payments payable to the provider. If the offset cannot be applied to those payments because they are less than the excess interim payments, the insurer may bill the health care provider for the excess payment, and the provider shall remit payment to the insurer within 30 days thereafter.

(d) As used in this section, the term:

(1) 'Health care provider' means any person who is licensed, registered, or certified under Chapter 90 of the General Statutes; a health care facility as defined in G.S. 131E-176(9)(b); or a pharmacy.

(2) 'Insurer' means an entity that writes a health benefit plan as defined under G.S. 58-3-191 and that is an insurance company subject to this Chapter, a service corporation organized under Article 65 of this Chapter, a health maintenance organization organized under Article 67 of this Chapter, or a multiple employer welfare arrangement subject to Article 49 of this Chapter. The term 'insurer' includes a third-party administrator.

(3) 'Third-party administrator' has the same meaning as defined under G.S. 58-56-2."

Section 2. The Commissioner may adopt temporary rules to implement this act.

Section 3. This act is effective when it becomes law and expires December 31, 2000.

In the General Assembly read three times and ratified this the 7th day of June, 1999.

Became law upon approval of the Governor at 9:40 a.m. on the 18th day of June, 1999.

H.B. 495 **SESSION LAW 1999-185**

AN ACT TO PROVIDE FOR THE ARBITRATION OF ALL ISSUES ARISING FROM A MARITAL SEPARATION OR DIVORCE, EXCEPT FOR THE DIVORCE ITSELF, UPON THE AGREEMENT OF ALL PARTIES; AND TO AMEND G.S. 1-567.57.

The General Assembly of North Carolina enacts:

Section 1. Chapter 50 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 3.

"Family Law Arbitration Act.

"§ 50-41. Purpose; short title.

(a) It is the policy of this State to allow, by agreement of all parties, the arbitration of all issues arising from a marital separation or divorce, except for the divorce itself, while preserving a right of modification based on substantial change of circumstances related to alimony, child custody, and child support. Pursuant to this policy, the purpose of this Article is to provide for arbitration as an efficient and speedy means of resolving these disputes, consistent with Chapters 50, 50A, 50B, 51, 52, 52B, and 52C of the General Statutes and similar legislation, to provide default rules for the conduct of arbitration proceedings, and to assure access to the courts of this State for proceedings ancillary to this arbitration.

(b) This Article may be cited as the North Carolina Family Law Arbitration Act.

"§ 50-42. Arbitration agreements made valid, irrevocable, and enforceable.

(a) During, or after marriage, parties may agree in writing to submit to arbitration any controversy, except for the divorce itself, arising out of the marital relationship. Before marriage, parties may agree in writing to submit to arbitration any controversy, except for child support, child custody, or the divorce itself, arising out of the marital relationship. This agreement is valid, enforceable, and irrevocable except with both parties' consent, without regard to the justiciable character of the controversy and without regard to whether litigation is pending as to the controversy.

(b) This Article does not apply to an agreement to arbitrate in which a provision stipulates that this Article does not apply or to any arbitration or award under an agreement in which a provision stipulates that this Article does not apply.

"§ 50-43. Proceedings to compel or stay arbitration.

(a) On a party's application showing an agreement under G.S. 50-42 and an opposing party's refusal to arbitrate, the court shall order the parties to proceed with the arbitration. If an opposing party denies existence of an agreement to arbitrate, the court shall proceed summarily to determine whether a valid agreement exists and shall order arbitration if it finds for the moving party; otherwise, the application shall be denied.

(b) Upon the application of a party, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. This issue, when in substantial and bona fide dispute, shall be immediately and summarily tried and the court shall order a stay if it finds for the moving party. If the court finds for the opposing party, the court shall order the parties to go to arbitration.

(c) If an issue referable to arbitration under an alleged agreement is involved in an action or proceeding pending in a court of competent jurisdiction, the application shall be made in that court. Otherwise, the application may be made in any court of competent jurisdiction.

(d) The court shall order a stay in any action or proceeding involving an issue subject to arbitration if an order or an application for arbitration has been made under this section. If the issue is severable, the stay may be with respect to that specific issue only. When the application is made in an

action or proceeding, the order compelling arbitration shall include a stay of the court action or proceeding.

(e) An order for arbitration shall not be refused and a stay of arbitration shall not be granted on the ground that the claim in issue lacks merit or because grounds for the claim have not been shown.

"*§ 50-44. Interim relief and interim measures.*

(a) In the case of an arbitration where arbitrators have not yet been appointed, or where the arbitrators are unavailable, a party may seek interim relief directly from a court as provided in subsection (c) of this section. Enforcement shall be granted as provided by the law applicable to the type of interim relief sought.

(b) In all other cases a party shall seek interim measures as described in subsection (d) of this section from the arbitrators. A party has no right to seek interim relief from a court, except that a party to an arbitration governed by this Article may request from the court enforcement of the arbitrators' order granting interim measures and review or modification of any interim measures governing child support or child custody.

(c) In connection with an agreement to arbitrate or a pending arbitration, the court may grant under subsection (a) of this section any of the following:

(1) An order of attachment or garnishment;
(2) A temporary restraining order or preliminary injunction;
(3) An order for claim and delivery;
(4) Appointment of a receiver;
(5) Delivery of money or other property into court;
(6) Notice of lis pendens;
(7) Any relief permitted by G.S. 7B-502, 7B-1902, 50-13.5(d), 50-16.2A, 50-20(h), 50-20(i), or 50-20(i1); or Chapter 50A, Chapter 50B, or Chapter 52C of the General Statutes;
(8) Any relief permitted by federal law or treaties to which the United States is a party; or
(9) Any other order necessary to ensure preservation or availability of assets or documents, the destruction or absence of which would likely prejudice the conduct or effectiveness of the arbitration.

(d) The arbitrators may, at a party's request, order any party to take any interim measures of protection that the arbitrators consider necessary in respect to the subject matter of the dispute, including interim measures analogous to interim relief specified in subsection (c) of this section. The arbitrators may require any party to provide appropriate security, including security for costs as provided in G.S. 50-51, in connection with interim measures.

(e) In considering a request for interim relief or enforcement of interim relief, any finding of fact of the arbitrators in the proceeding shall be binding on the court, including any finding regarding the probable validity of the claim that is the subject of the interim relief sought or granted, except that the court may review any findings of fact or modify any interim measures governing child support or child custody.

(f) Where the arbitrators have not ruled on an objection to their jurisdiction, the findings of the arbitrators shall not be binding on the court until the court has made an independent finding as to the arbitrators'

jurisdiction. If the court rules that the arbitrators do not have jurisdiction, the application for interim relief shall be denied.

(g) Availability of interim relief or interim measures under this section may be limited by the parties' prior written agreement, except for relief pursuant to G.S. 7B-502, 7B-1902, 50-13.5(d), 50-20(h), 50A-25, 50B-3, Chapter 52C of the General Statutes; federal law; or treaties to which the United States is a party, whose purpose is to provide immediate, emergency relief or protection.

(h) Arbitrators who have cause to suspect that any child is abused or neglected shall report the case of that child to the director of the department of social services of the county where the child resides or, if the child resides out-of-state, of the county where the arbitration is conducted.

(i) A party seeking interim measures, or any other proceeding before the arbitrators, shall proceed in accordance with the agreement to arbitrate. If the agreement to arbitrate does not provide for a method of seeking interim measures, or for other proceedings before the arbitrators, the party shall request interim measures or a hearing by notifying the arbitrators and all other parties of the request. The arbitrators shall notify the parties of the date, time, and place of the hearing.

"*§ 50-45. Appointment of arbitrators; rules for conducting the arbitration.*

(a) Unless the parties agree otherwise, a single arbitrator shall be chosen by the parties to arbitrate all matters in dispute.

(b) If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. The agreement may provide for appointing one or more arbitrators. Upon the application of a party, the court shall appoint arbitrators in any of the following situations:

(1) The method agreed upon by the parties in the arbitration agreement fails or for any reason cannot be followed.

(2) An arbitrator who has already been appointed fails or is unable to act, and a successor has not been chosen by the parties.

(3) The parties cannot agree on an arbitrator.

(c) Arbitrators appointed by the court have all the powers of those arbitrators specifically named in the agreement. In appointing arbitrators, a court shall consult with prospective arbitrators as to their availability and shall refer to each of the following:

(1) The positions and desires of the parties.

(2) The issues in dispute.

(3) The skill, substantive training, and experience of prospective arbitrators in those issues, including their skill, substantive training, and experience in family law issues.

(4) The availability of prospective arbitrators.

(d) The parties may agree to employ an established arbitration institution to conduct the arbitration. If the agreement does not provide a method for appointment of arbitrators and the parties cannot agree on an arbitrator, the court may appoint an established arbitration institution the court considers qualified in family law arbitration to conduct the arbitration.

(e) The parties may agree on rules for conducting the arbitration. If the parties cannot agree on rules for conducting the arbitration, the arbitrators shall select the rules for conducting the arbitration after hearing all parties

and taking particular reference to model rules developed by arbitration institutions or similar sources. If the arbitrators cannot decide on rules for conducting the arbitration, upon application by a party, the court may order use of rules for conducting the arbitration, taking particular reference to model rules developed by arbitration institutions or similar sources.

(f) Arbitrators and established arbitration institutions, whether chosen by the parties or appointed by the court, have the same immunity as judges from civil liability for their conduct in the arbitration.

(g) 'Arbitration institution' means any neutral, independent organization, association, agency, board, or commission that initiates, sponsors, or administers arbitration proceedings, including involvement in appointment of arbitrators.

(h) The court may award costs, as provided in G.S. 50-51(f), in connection with applications and other proceedings under this section.

"*§ 50-46. Majority action by arbitrators.*

The arbitrators' powers shall be exercised by a majority unless otherwise provided by the arbitration agreement or this Article.

"*§ 50-47. Hearing.*

Unless otherwise provided by the agreement:

(a) The arbitrators shall appoint a time and place for the hearing and notify the parties or their counsel by personal service or by registered or certified mail, return receipt requested, not less than five days before the hearing. Appearance at the hearing waives any claim of deficiency of notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause shown, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. Upon application of a party, the court may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(b) The parties are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(c) All the arbitrators shall conduct the hearing, but a majority may determine any question and may render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.

(d) Upon request of any party or at the election of any arbitrator, the arbitrators shall cause to be made a record of testimony and evidence introduced at the hearing. The arbitrators shall decide how the cost of the record will be apportioned.

"*§ 50-48. Representation by attorney.*

A party has the right to be represented by counsel at any proceeding or hearing under this Article. A waiver of representation prior to a proceeding or hearing is ineffective.

"*§ 50-49. Witnesses; subpoenas; depositions; court assistance.*

(a) The arbitrators have the power to administer oaths and may issue subpoenas for attendance of witnesses and for production of books, records,

documents, and other evidence. Subpoenas issued by the arbitrators shall be served and, upon application to the court by a party or the arbitrators, enforced in the manner provided by law for service and enforcement of subpoenas in a civil action.

(b) On the application of a party and for use as evidence, the arbitrators may permit depositions to be taken in the manner and upon the terms the arbitrators designate.

(c) All provisions of law compelling a person under subpoena to testify apply.

(d) The arbitrators or a party with the approval of the arbitrators may request assistance from the court in obtaining discovery and taking evidence, in which event the Rules of Civil Procedure under Chapter 1A of the General Statutes and Chapters 50, 50A, 52B, and 52C of the General Statutes apply. The court may execute the request within its competence and according to its rules on discovery and evidence and may impose sanctions for failure to comply with its orders.

(e) A subpoena may be issued as provided by G.S. 8-59, in which case the witness compensation provisions of G.S. 6-51, 6-53, and 7A-314 shall apply.

"*§ 50-50. Consolidation.*

(a) If parties to two or more arbitration agreements agree, in their respective arbitration agreements or otherwise, to consolidate arbitrations arising out of those agreements, they may agree upon common arbitrators to hear all arbitrations, and these arbitrations shall proceed as consolidated.

(b) If parties to two or more arbitration agreements agree, in their respective arbitration agreements or otherwise, to consolidate arbitrations arising out of those agreements, the court, upon application by a party, may do any of the following:

(1) Order the arbitrations consolidated on terms the court considers just and necessary;

(2) If all parties cannot agree on arbitrators for the consolidated arbitration, appoint arbitrators as provided by G.S. 50-45; and

(3) If all parties cannot agree on any other matter necessary to conduct the consolidated arbitration, make other orders it considers necessary.

"*§ 50-51. Award; costs.*

(a) The award shall be in writing, dated and signed by the arbitrators joining in the award, with a statement of the place where the award was made. Where there is more than one arbitrator, the signatures of a majority of the arbitrators suffice, but the reason for any omitted signature shall be stated. The arbitrators shall deliver a copy of the award to each party personally or by registered or certified mail, return receipt requested, or as provided in the agreement. Time of delivery shall be computed from the date of personal delivery or date of mailing.

(b) Unless the parties agree otherwise, the award shall state the reasons upon which it is based.

(c) Unless the parties agree otherwise, the arbitrators may award interest as provided by law.

(d) The arbitrators in their discretion may award specific performance to a party requesting an award of specific performance when that would be an appropriate remedy.

(e) Unless the parties agree otherwise, the arbitrators may not award punitive damages. If arbitrators award punitive damages, they shall state the award in a record and shall specify facts justifying the award and the amount of the award attributable to punitive damages.

(f) Costs:

(1) Unless the parties otherwise agree, awarding of costs of an arbitration shall be in the arbitrators' discretion.

(2) In making an award of costs, the arbitrators may include any or all of the following as costs:

a. Fees and expenses of the arbitrators, expert witnesses, and translators;

b. Fees and expenses of counsel and of an institution supervising the arbitration, if any;

c. Any other expenses incurred in connection with the arbitration proceedings;

d. Sanctions awarded by the arbitrators or the court, including those provided by N.C.R. Civ. P. 11 and 37; and

e. Costs allowed by Chapters 6 and 7A of the General Statutes.

(3) In making an award of costs, the arbitrators shall specify each of the following:

a. The party entitled to costs;

b. The party who shall pay costs;

c. The amount of costs or method of determining that amount; and

d. The manner in which costs shall be paid.

(g) An award shall be made within the time fixed by the agreement. If no time is fixed by the agreement, the award shall be made within the time the court orders on a party's application. The parties may extend the time in writing either before or after the expiration of this time. A party waives objection that an award was not made within the time required unless that party notifies the arbitrators of his or her objection prior to delivery of the award to that party.

"*§ 50-52. Change of award by arbitrators.*

On a party's application to the arbitrators or, if an application to the court is pending under G.S. 50-53 through G.S. 50-56, on submission to the arbitrators by the court under the conditions ordered by the court, the arbitrators may modify or correct the award upon grounds stated in subdivisions (1) and (3) of subsection (a) of G.S. 50-55, or clarify the award. The application shall be made within 20 days after delivery of the award to the opposing party, stating that the opposing party must serve objections to the application, if any, within 10 days from notice. An award modified or corrected under this section is subject to the provisions of G.S. 50-53 through G.S. 50-56.

"*§ 50-53. Confirmation of award.*

Upon a party's application, the court shall confirm an award, unless within time limits imposed under G.S. 50-54 through G.S. 50-56 grounds

are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in G.S. 50-54 through G.S. 50-56. The court may award costs, as provided in G.S. 50-51(f), of the application and subsequent proceedings.

"*§ 50-54. Vacating an award.*

(a) Upon a party's application, the court shall vacate an award for any of the following reasons:

(1) The award was procured by corruption, fraud, or other undue means;

(2) There was evident partiality by an arbitrator appointed as a neutral, corruption of an arbitrator, or misconduct prejudicing the rights of a party;

(3) The arbitrators exceeded their powers;

(4) The arbitrators refused to postpone the hearing upon a showing of sufficient cause for the postponement, refused to hear evidence material to the controversy, or otherwise conducted the hearing contrary to the provisions of G.S. 50-47;

(5) There was no arbitration agreement, the issue was not adversely determined in proceedings under G.S. 50-43, and the party did not participate in the arbitration hearing without raising the objection. The fact that the relief awarded either could not or would not be granted by a court is not a ground for vacating or refusing to confirm the award;

(6) The court determines that the award for child support or child custody is not in the best interest of the child. The burden of proof at a hearing under this subdivision is on the party seeking to vacate the arbitrator's award;

(7) The award included punitive damages, and the court determines that the award for punitive damages is clearly erroneous; or

(8) If the parties contract in an arbitration agreement for judicial review of errors of law in the award, the court shall vacate the award if the arbitrators have committed an error of law prejudicing a party's rights.

(b) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant. If the application is predicated on corruption, fraud, or other undue means, it shall be made within 90 days after these grounds are known or should have been known.

(c) In vacating an award on grounds other than stated in subdivision (5) of subsection (a) of this section, the court may order a rehearing before arbitrators chosen as provided in the agreement, or in the absence of a provision regarding the appointment of arbitrators, by the court in accordance with G.S. 50-45, except in the case of a vacated award for child support or child custody in which case the court may proceed to hear and determine all such issues. The time within which the agreement requires an award to be made applies to the rehearing and commences from the date of the order.

(d) If an application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award and may

award costs, as provided in G.S. 50-51(f), of the application and subsequent proceedings.

"*§ 50-55. Modification or correction of award.*

(a) Upon application made within 90 days after delivery of a copy of an award to an applicant, the court shall modify or correct the award where at least one of the following occurs:

(1) There is an evident miscalculation of figures or an evident mistake in the description of a person, thing, or property referred to in the award;

(2) The arbitrators have awarded upon a matter not submitted to them, and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify or correct the award to effect its intent and shall confirm the award as modified or corrected. Otherwise, the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

(d) The court may award costs, as provided in G.S. 50-51(f), of the application and subsequent proceedings.

"*§ 50-56. Modification of award for alimony, postseparation support, child support, or child custody based on substantial change of circumstances.*

(a) A court or the arbitrators may modify an award for postseparation support, alimony, child support, or child custody under conditions stated in G.S. 50-13.7 and G.S. 50-16.9 in accordance with procedures stated in subsections (b) through (f) of this section.

(b) Unless the parties have agreed that an award for postseparation support or alimony shall be nonmodifiable, an award by arbitrators for postseparation support or alimony under G.S. 50-16.2A, 50-16.3A, 50-16.4, or 50-16.7 may be modified if a court order for alimony or postseparation support could be modified pursuant to G.S. 50-16.9.

(c) An award by arbitrators for child support or child custody may be modified if a court order for child support or child custody could be modified pursuant to G.S. 50-13.7.

(d) If an award for modifiable postseparation support or alimony, or an award for child support or child custody, has not been confirmed pursuant to G.S. 50-53, upon the parties' agreement these matters may be submitted to arbitrators chosen by the parties as provided in G.S. 50-45, in which case G.S. 50-52 through G.S. 50-56 apply to this modified award.

(e) If an award for modifiable postseparation support or alimony, or an award for child support or child custody has been confirmed pursuant to G.S. 50-53, upon the parties' agreement and joint motion, the court may remit these matters to arbitrators chosen by the parties as provided in G.S. 50-45, in which case G.S. 50-52 through G.S. 50-56 apply to this modified award.

(f) Except as otherwise provided in this section, the provisions of G.S. 50-55 apply to modifications or corrections of awards for postseparation support, alimony, child support, or child custody.

"§ 50-57. *Orders or judgments on award.*

Upon granting an order confirming, modifying, or correcting an award, an order or judgment shall be entered in conformity with the order and docketed and enforced as any other order or judgment. The court may award costs, as provided in G.S. 50-51(f), of the application and of proceedings subsequent to the application and disbursements.

"§ 50-58. *Applications to the court.*

Except as otherwise provided, an application to a court under this Article shall be by motion and shall be heard in the manner and upon notice provided by law or rule of court for making and hearing motions in civil actions. Unless the parties agree otherwise, notice of an initial application for an order shall be served in the manner provided by law for service of summons in civil actions.

"§ 50-59. *Court; jurisdiction.*

The term 'court' means a court of competent jurisdiction of this State. Making an agreement in this State described in G.S. 50-42 or any agreement providing for arbitration in this State or under its laws confers jurisdiction on the court to enforce the agreement under this Article and to enter judgment on an award under the agreement.

"§ 50-60. *Appeals.*

(a) An appeal may be based on failure to comply with the procedural aspects of this Article. An appeal may be taken from any of the following:

(1) An order denying an application to compel arbitration made under G.S. 50-43;

(2) An order granting an application to stay arbitration made under G.S. 50-43(b);

(3) An order confirming or denying confirmation of an award;

(4) An order modifying or correcting an award;

(5) An order vacating an award without directing a rehearing; or

(6) A judgment entered pursuant to provisions of this Article.

(b) Unless the parties contract in an arbitration agreement for judicial review of errors of law as provided in G.S. 50-54(a), a party may not appeal on the basis that the arbitrator failed to apply correctly the law under Chapters 50, 50A, 52B, or 52C of the General Statutes.

(c) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

"§ 50-61. *Article not retroactive.*

This Article applies to agreements made on or after October 1, 1999, unless parties by separate agreement after that date state that this Article shall apply to agreements dated before October 1, 1999.

"§ 50-62. *Construction; uniformity of interpretation.*

Certain provisions of this Article have been adapted from the Uniform Arbitration Act in force in this State, the North Carolina International Commercial Arbitration and Conciliation Act, and Chapters 50, 50A, 50B, 51, 52, and 52C of the General Statutes. This Article shall be construed to effect its general purpose to make uniform provisions of these Acts and Chapters 50, 50A, 50B, 51, 52, 52B, and 52C of the General Statutes."

Section 2. G.S. 1-567.57(b) reads as rewritten:

"(b) If the parties to two or more arbitration agreements agree, in their respective arbitration agreements or otherwise, to consolidate the arbitrations arising out of those agreements, the superior court, ~~on~~ upon application by ~~one party with the consent of all the other parties to those arbitration agreements, may:~~ a party, may do any of the following:

(1) Order the arbitrations to be consolidated on terms the court considers just and necessary;

(2) If all the parties cannot agree on an arbitral tribunal for the consolidated arbitration, appoint an arbitral tribunal as provided by G.S. 1-567.41; and

(3) If all the parties cannot agree on any other matter necessary to conduct the consolidated arbitration, make any other order it considers necessary."

Section 3. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 7th day of June, 1999.

Became law upon approval of the Governor at 9:45 a.m. on the 18th day of June, 1999.

S.B. 293 **SESSION LAW 1999-186**

AN ACT TO REMOVE THE SUNSET FROM AN ACT PROVIDING FOR REIMBURSEMENT BY HEALTH INSURERS FOR SERVICES PROVIDED BY FEE-BASED PRACTICING PASTORAL COUNSELORS.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 406 of the 1995 Session Laws reads as rewritten:

"Sec. 6. This act becomes effective July 15, 1995, and applies to treatment or services rendered on or after that date. ~~This act expires July 1, 1999.~~"

Section 1.1. G.S. 90-396 is repealed.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law upon approval of the Governor at 9:47 a.m. on the 18th day of June, 1999.

S.B. 921 **SESSION LAW 1999-187**

AN ACT TO ALLOW JUDGMENT BY DEFAULT TO BE ENTERED BY THE JUDGE WITHOUT A HEARING SUBJECT TO CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 55(b) reads as rewritten:

"(b) Judgment. -- Judgment by default may be entered as follows:

(1) By the Clerk. -- When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the defendant, if ~~he~~ the defendant has been defaulted for failure to appear and if ~~he~~ the defendant is not an infant or incompetent person. A verified pleading may be used in lieu of an affidavit when the pleading contains information sufficient to determine or compute the sum certain.

In all cases wherein, pursuant to this rule, the clerk enters judgment by default upon a claim for debt which is secured by any pledge, mortgage, deed of trust or other contractual security in respect of which foreclosure may be had, or upon a claim to enforce a lien for unpaid taxes or assessments under G.S. 105-414, the clerk may likewise make all further orders required to consummate foreclosure in accordance with the procedure provided in Article 29A of Chapter 1 of the General Statutes, entitled "Judicial Sales."

(2) By the Judge. --

a. In all other cases the party entitled to a judgment by default shall apply to the judge therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action by a guardian ad litem or other such representative who has appeared therein. If the party against whom judgment by default is sought has appeared in the action, ~~he~~ that party (or, if appearing by representative, ~~his~~ the representative) shall be served with written notice of the application for judgment at least three days prior to the hearing on such application. If, in order to enable the judge to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to take an investigation of any other matter, the judge may conduct such hearings or order such references as ~~he~~ the judge deems necessary and proper and shall accord a right of trial by jury to the parties when and as required by the Constitution or by any statute of North Carolina. If the plaintiff seeks to establish paternity under Article 3 of Chapter 49 of the General Statutes and the defendant fails to appear, the judge shall enter judgment by default.

b. A motion for judgment by default may be decided by the court without a hearing if:

1. The motion specifically provides that the court will decide the motion for judgment by default without a hearing if the party against whom judgment is sought fails to serve a written response, stating the grounds for opposing the motion, within 30 days of service of the motion; and
2. The party against whom judgment is sought fails to serve the response in accordance with this sub-subdivision."

Section 2. This act becomes effective October 1, 1999, and applies to causes of action commenced on or after that date.

In the General Assembly read three times and ratified this the 8th day of June, 1999.

Became law upon approval of the Governor at 10:00 p.m. on the 18th day of June, 1999.

S.B. 885 **SESSION LAW 1999-188**

AN ACT CLARIFYING THE AUTHORITY OF THE STATE AUDITOR TO EXAMINE STATE EMPLOYEE PERSONNEL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-64.7(a) reads as rewritten:

"(a) Access to Persons and Records. --

(1) The Auditor and his authorized representatives shall have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any State agency. The review of State tax returns shall be limited to matters of official business and the Auditor's report shall not violate the confidentiality provisions of tax laws.

(2) The Auditor and his duly authorized representatives shall have such access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation which is in the possession of any individual, private corporation, institution, association, board, or other organization which pertain to:

a. Amounts received pursuant to a grant or contract from the federal government, the State, or its political subdivisions.

b. Amounts received, disbursed, or otherwise handled on behalf of the federal government or the State. In order to determine that payments to providers of social and medical services are legal and proper, the providers of such services will give the Auditor, or his authorized representatives, access to the records of recipients who receive such services.

(3) The Auditor shall, for the purpose of examination and audit authorized by this act, have the authority, and will be provided ready access, to examine and inspect all property, equipment, and facilities in the possession of any State agency or any individual, private corporation, institution, association, board, or other organization which were furnished or otherwise provided through grant, contract, or any other type of funding by the State of North Carolina, or the federal government.

(4) All contracts or grants entered into by State agencies or political subdivisions shall include, as a necessary part, a clause providing access as intended by this section.

(5) The Auditor and his authorized agents are authorized to examine all books and accounts of any individual, firm, or corporation only

insofar as they relate to transactions with any agency of the State."

Section 2. G.S. 147-64.6(d) reads as rewritten:

"(d) Reports and Work Papers. -- The Auditor shall maintain for 10 years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under his authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of his office shall be retained according to an agreement between the Auditor and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, and notwithstanding the provisions of G.S. 126-24, pertinent work papers and other supportive material related to issued audit reports may be, at the discretion of the Auditor and unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal government who desire access to and inspection of such records in connection with some matter officially before ~~them.~~ them, including criminal investigations.

Except as provided above, or upon subpoena issued by a duly authorized court or court official, audit work papers shall be kept confidential."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of June, 1999.

Became law upon approval of the Governor at 10:03 p.m. on the 18th day of June, 1999.

S.B. 660 **SESSION LAW 1999-189**

AN ACT TO AMEND THE LAW GOVERNING LIMITED LIABILITY COMPANIES TO CLARIFY CERTAIN DEFINITIONS OF TERMS, TO PROVIDE MORE FLEXIBILITY WITH REGARD TO ORGANIZERS, TO CLARIFY THAT THE FILING OF THE ARTICLES OF ORGANIZATION IS CONCLUSIVE EVIDENCE OF THE FORMATION OF A COMPANY, TO REVISE THE CIRCUMSTANCES AND RESTRICTIONS REGARDING FORMATION OF A COMPANY, TO PROVIDE FOR THE INDEXING OF REAL ESTATE RECORDS TO REFLECT MERGERS AND CONVERSIONS OF BUSINESS ENTITIES, TO ALLOW ALTERNATIVE MANAGEMENT STRUCTURES, TO PROVIDE FOR WITHDRAWAL FROM A COMPANY ONLY AS PERMITTED BY THE ARTICLES OF ORGANIZATION OR WRITTEN OPERATING AGREEMENT, TO REVISE THE PERMITTED GROUNDS FOR DISSOLUTION, AND TO CLARIFY THAT A COMPANY MAY ENGAGE IN A BUSINESS UNDER AN ASSUMED NAME.

The General Assembly of North Carolina enacts:

PART I. DEFINITIONS.

Section 1. G.S. 57C-1-03 reads as rewritten:

"§ *57C-1-03. Definitions.*

The following definitions apply in this Chapter, unless otherwise specifically provided:

(1) Articles of organization. -- The document filed under G.S. 57C-2-20 of this Chapter for the purpose of forming a limited liability company, as amended or restated.

(2) Bankrupt. -- Bankrupt under the United States Bankruptcy Code, as amended, or insolvent under State insolvency laws.

(3) Business. -- Any lawful trade, ~~occupation,~~ investment, or other purpose or ~~commercial activity~~ activity, whether or not such trade, investment, purpose, or activity is carried on ~~engaged in~~ for ~~gain or~~ profit.

(4) Corporation. -- Has the same meaning as in G.S. 55-1-40(4).

(5) Court. -- Includes every court and judge having jurisdiction in the case.

(6) Distribution. -- A direct or indirect transfer of money or other property or incurrence of indebtedness by a limited liability company to or for the benefit of its members in respect of their membership interests.

(7) Foreign corporation. -- Has the same meaning as in G.S. 55-1-40(10).

(8) Foreign limited liability company. -- An unincorporated organization formed under laws other than the laws of this State, that affords to each of its members, pursuant to the laws under which it is formed, limited liability with respect to the liabilities of the organization.

(9) Foreign limited partnership. -- Has the same meaning as in G.S. 59-102(5).

(10) Individual. -- A human being.

(10a) Liabilities, debts, and obligations. -- Have one and the same meaning and are used interchangeably throughout this Chapter. Reference to 'liabilities,' 'debts,' or 'obligations' whether individually or in any combination, is deemed to reference 'all liabilities, debts, and obligations, whether arising in contract, tort, or otherwise.'

(11) Limited liability company or domestic limited liability company. -- An entity formed and existing under this Chapter.

(12) Limited partnership or domestic limited partnership. -- Has the same meaning as in G.S. 59-102(8).

(13) Manager. -- Has the following meanings: (i) with respect to a limited liability company that has set forth in its articles of organization that it is to be or may be managed by persons other than members, any person designated in accordance with G.S. 57C-3-20(a), (ii) with respect to any other limited liability company, its members, and (iii) with respect to a foreign limited liability company, any person authorized to act for and bind the foreign limited liability company.

(14) Member. -- A person who has been admitted to membership in the limited liability company as provided in G.S. 57C-3-01 until

the person's membership ceases as provided in G.S. 57C-3-02 or G.S. 57C-5-02.

(15) Membership interest or interest. -- All of a member's rights in the limited liability company, including without limitation the member's share of the profits and losses of the limited liability company, the right to receive distributions of the limited liability company assets, any right to vote, and any right to participate in management.

(16) Operating agreement. -- Any agreement, written or oral, of the members with respect to the affairs of a limited liability company and the conduct of its business that is binding on all the members. An operating agreement shall include, in the case of a limited liability company with only one member, any writing signed by the member, without regard to whether the writing constitutes an agreement, that relates to the affairs of the limited liability company and the conduct of its business.

(16a) Organizer. -- A person who executes the articles of organization of a limited liability company in the capacity of an organizer.

(17) Person. -- An individual, a trust, an estate, or a domestic or foreign corporation, a domestic or foreign professional corporation, a domestic or foreign partnership, a domestic or foreign limited partnership, a domestic or foreign limited liability company, an unincorporated association, or another entity.

(18) State. -- A state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico."

PART II. FORMATION.

Section 2.1. G.S. 57C-1-20(f)(3) reads as rewritten:

"(3) If the limited liability company has not been ~~formed,~~ formed or if no initial members of the limited liability company have been identified in the manner provided in this Chapter, by an organizer; or".

Section 2.2. G.S. 57C-2-20 reads as rewritten:

"*§ 57C-2-20. Formation.*

(a) One or more persons may ~~organize~~ form a limited liability company by delivering executed articles of organization to the Secretary of State for filing.

(b)(1) When the filing by the Secretary of State ~~files~~ of the articles of ~~organization,~~ organization becomes effective, the proposed organization becomes a limited liability company subject to this Chapter and to the purposes, conditions, and provisions stated in the ~~articles, and the persons executing the articles of organization become members of the limited liability company.~~ articles of organization.

(2) Filing of the articles of organization by the Secretary of State is conclusive evidence of the ~~organization~~ formation of the limited liability company, except in a proceeding by the State to cancel or

revoke the articles of organization or involuntarily dissolve the limited liability company.

(c) If initial members are not identified in the articles of organization of a limited liability company in the manner provided in G.S. 57C-3-01(a), the organizers shall hold one or more meetings at the call of a majority of the organizers to identify the initial members of the limited liability company. Unless otherwise provided in this Chapter or in the articles of organization of the limited liability company, all decisions to be made by the organizers at such meetings shall require the approval, consent, agreement, or ratification of a majority of the organizers. Unless otherwise provided in the articles of organization, the organizers may, in lieu of a meeting, take action as described in this subsection by written consent signed by all of the organizers. The written consent may be incorporated in, or otherwise made part of, the initial written operating agreement of the limited liability company.

(d) A limited liability company may also be formed through the conversion of another business entity in accordance with Part 1 of Article 9 of this Chapter."

Section 2.3. G.S. 57C-2-21(a) reads as rewritten:

"(a) The articles of organization must set forth:

(1) A name for the limited liability company that satisfies the provisions of G.S. 57C-2-30;

(2) ~~The latest date on which~~ If the limited liability company is to ~~dissolve;~~ dissolve by a specific date, the latest date on which the limited liability company is to dissolve. If no date for dissolution is specified, there shall be no limit on the duration of the limited liability company;

(3) The name and address of each person executing the articles of ~~organization;~~ organization and whether the person is executing the articles of organization in the capacity of a member or an organizer;

(4) The street address, and the mailing address if different from the street address, of the limited liability company's initial registered office, the county in which the initial registered office is located, and the name of the limited liability company's initial registered agent at that address; and

(5) Unless all of the members by virtue of their status as members shall be managers of the limited liability company, a statement that, except as provided in G.S. 57C-3-20(a), the members shall not be managers by virtue of their status as members."

Section 2.4. G.S. 57C-2-22(b) reads as rewritten:

"(b) Unless otherwise provided in the articles of organization or a written operating agreement, any amendment to the articles of organization shall require the unanimous vote of the ~~members.~~ members or, if no initial members of the limited liability company have been identified in the manner provided in this Chapter, by the unanimous vote of the organizers."

Section 2.5. G.S. 57C-2-22.1(b) reads as rewritten:

"(b) The restated articles of organization may include one or more amendments to the ~~articles.~~ articles of organization. Unless otherwise

provided in the articles of organization or a written operating agreement, any amendment requires the unanimous vote of the ~~members.~~ members or, if no initial members of the limited liability company have been identified in the manner provided in this Chapter, by the unanimous vote of the organizers. The restated articles of organization may include a statement of the address of the current registered office and the name of the current registered agent of the limited liability company."

PART III. REAL ESTATE RECORDS INDEX.

Section 3. G.S. 57C-2-34 reads as rewritten:

"*§ 57C-2-34. Real property records.*

(a) Whenever the name of any domestic or foreign limited liability company holding title to real property in this State is changed upon amendment to its articles of organization or whenever title to its real property in this State is ~~transferred~~ vested by operation of law in another entity upon merger or conversion of ~~two or more~~ the limited liability ~~companies,~~ company, a certificate reciting the ~~change or transfer~~ name change, merger, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.

(b) The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this section. In the case of a foreign limited liability company, a similar certificate by any competent authority of the jurisdiction of organization may be registered in accordance with this section.

(c) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the limited liability company holding title to the real property before the ~~amendment or merger~~ name change, merger, or conversion shall appear in the 'Grantor' index, and the ~~amended~~ new name of the limited liability company or the name of the other entity holding title to the real property by virtue of the ~~amendment or~~ merger or conversion, as applicable, shall appear in the 'Grantee' index."

PART IV. MEMBERSHIP.

Section 4.1. G.S. 57C-3-01 reads as rewritten:

"**§ 57C-3-01. Admission of members.**

(a) ~~The persons executing~~ Unless the articles of organization of a limited liability company ~~become members upon the effective time of filing of the articles of organization by the Secretary of State as specified in G.S. 57C-2-20.~~ provide otherwise, each person executing the articles of organization of a limited liability company in the capacity of a member, and each person who is otherwise named in the articles of organization as a member of the limited liability company, becomes a member at the time that the filing by the Secretary of State of the articles of organization of the limited liability company becomes effective.

(b) ~~After the formation of a limited liability company, a~~ A person may be admitted as a ~~member:~~ member of a limited liability company:

(1) In the case of a person acquiring a membership interest directly from the limited liability company, (i) upon being so identified by the organizers of the limited liability company in accordance with G.S. 57C-2-20(c) or (ii) upon compliance with the articles of organization or operating agreement or, if the articles of organization or operating agreement do not so provide, upon the unanimous consent of the members; and

(2) In the case of an assignee of an interest of a member, upon compliance with the provisions of G.S. 57C-5-04(a)."

Section 4.2. G.S. 57C-3-05 reads as rewritten:

"*§ 57C-3-05. Members bound by operating agreements.*

A member shall be bound by any operating agreement, including any amendment thereto, otherwise valid under this Chapter and other applicable law, (i) to which the member has expressly assented, or (ii) which was in effect at the time the member became a member and either was in writing or the terms of which were actually known to the member, or (iii) with respect to any amendment, if the member was bound by the operating agreement as in effect immediately prior to such amendment and such amendment was adopted in accordance with the terms of such operating agreement. The articles of organization or written operating agreement may require that all agreements of the members constituting the operating agreement be in writing, in which case the term 'operating agreement' shall not include oral agreements of the members. Except to the extent otherwise provided in a written operating agreement, a limited liability company shall be deemed for all purposes to be a party to the operating agreement of its member or members."

Section 4.3. G.S. 57C-3-20(b) reads as rewritten:

"(b) Except to the extent otherwise provided in the articles of organization or a written operating agreement, ~~Management~~ management of the affairs of the limited liability company shall be vested in ~~its~~ the managers. Subject to any provisions in the articles of organization or a written operating agreement or this Chapter restricting, enlarging, or modifying the management rights and duties of any manager or managers, or management procedures, each manager shall have equal rights and authority to participate in the management of the limited liability company, and management decisions shall require the approval, consent, agreement, or ratification of a majority of the managers."

Section 4.4. G.S. 57C-3-32(b) reads as rewritten:

"(b) No provision permitted under subsection (a) of this section shall limit, eliminate, or indemnify against the liability of a manager for (i) acts or omissions that the manager knew at the time of the acts or omissions were clearly in conflict with the interests of the limited liability company, (ii) any transaction from which the manager derived an improper personal benefit, or (iii) acts or omissions occurring prior to the date the provision became effective, except that indemnification pursuant to subdivision (2) of subsection (a) of this section may be provided if approved by all the members. As used in this subsection, 'improper personal benefit' does not

include reasonable compensation or other reasonable incidental benefit for or on account of service as a manager, an officer, an employee, an independent contractor, an attorney, or a consultant of the limited liability company.

~~No provision permitted under subsection (a) of this section shall limit or eliminate the liability of a member or manager for any taxes owed by the limited liability company under Chapter 105 of the General Statutes or Article 3 of Chapter 119 of the General Statutes.~~"

Section 4.5. G.S. 57C-5-06 reads as rewritten:

"§ *57C-5-06. Voluntary withdrawal of member.*

A member may withdraw only at the time or upon the happening of the events specified in the articles of organization or a written operating agreement. ~~by giving not less than six months' prior written notice to the other members at their respective addresses as shown on the books of the limited liability company, unless:~~

~~(1) The articles of organization or a written operating agreement provide that the member does not have the right or power to withdraw; or~~

~~(2) The articles of organization or a written operating agreement specify another time for or impose other conditions on withdrawal.~~"

Section 4.6. G.S. 57C-5-07 reads as rewritten:

"§ *57C-5-07. Distribution upon withdrawal.*

Except as provided in and to the extent provided under this ~~Article,~~ Chapter, upon withdrawal, any withdrawing member is entitled to receive any distribution to which he is otherwise entitled under the articles of organization or a written operating agreement, or, if not otherwise provided in the articles of organization or a written operating agreement, upon a reasonable time after withdrawal, the fair value of the member's interest in the limited liability company as of the date of withdrawal based upon the member's right to share in distributions from the limited liability company."

PART V. DISSOLUTION.

Section 5.1. G.S. 57C-6-01 reads as rewritten:

"§ *57C-6-01. Dissolution.*

A limited liability company is dissolved and its affairs shall be wound up at or upon the first to occur of the following:

(1) The time specified in the articles of organization or a written operating agreement;

(2) The happening of an event specified in the articles of organization or a written operating agreement;

(3) The written consent of all members;

(4) Unless otherwise provided in the articles of organization or a written operating agreement, at such time that the limited liability company no longer has any members. ~~the happening of any event of withdrawal described in G.S. 57C-3-02 (cessation of membership) with respect to any member, unless at the time of the event of withdrawal (i) there is at least one remaining member, (ii) the provisions of the articles of organization or a written~~

~~operating agreement permit the business of the limited liability company to be carried on by the remaining member or members, and (iii) the remaining member or members elect to do so pursuant to such vote, to procedures prescribed in the articles of organization or a written operating agreement, or, in the absence of prescribed voting requirements or procedures, by a unanimous vote of the remaining member or members taken after the event of withdrawal.~~ The foregoing to the contrary notwithstanding, unless otherwise provided in the articles of organization or a written operating agreement, a limited liability company shall not be dissolved and is not required to be wound up by reason of any event of withdrawal of the last remaining member if, within 90 days after the event of withdrawal, the assignee or the fiduciary of the estate of the last remaining member ~~all remaining members agree~~ agrees in writing that the business of the limited liability company may be ~~continued; or~~ continued until the admission of the assignee or the fiduciary of the estate of the member or its designee to the limited liability company as a member, effective as of the occurrence of the event that causes the withdrawal of the last remaining member; or

(5) Entry of a decree of judicial dissolution under G.S. 57C-6-02, or the filing by the Secretary of State of a certificate of dissolution under G.S. 57C-6-03."

Section 5.2. G.S. 57C-6-02 reads as rewritten:

"§ *57C-6-02. ~~Judicial~~ Grounds for judicial dissolution.*

~~(a) On application by or for a member, the~~ The superior court may ~~decree dissolution of~~ dissolve a limited liability ~~company whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or an operating agreement. The clerk of court shall deliver a certified copy of the decree to the Secretary of State, who shall file it.~~ company in a proceeding by the following:

(1) The Attorney General if it is established that (i) the limited liability company obtained its articles of organization through fraud; or (ii) the limited liability company has, after written notice by the Attorney General given at least 120 days prior thereto, continued to exceed or abuse the authority conferred upon it by law;

(2) A member if it is established that (i) the managers or those in control of the limited liability company are deadlocked in the management of the affairs of the limited liability company, the members are unable to break the deadlock, and irreparable injury to the limited liability company is threatened or being suffered, or the business and affairs of the limited liability company can no longer be conducted to the advantage of the members generally, because of the deadlock; (ii) liquidation is reasonably necessary for the protection of the rights or interests of the complaining member, (iii) the assets of the limited liability company are being misapplied or wasted; or (iv) the articles of organization or a written operating agreement entitles the complaining member to dissolution of the limited liability company; or

(3) The limited liability company to have its voluntary dissolution continued under court supervision.

~~(b) Venue for a proceeding under subsection (a) of this section to dissolve a limited liability company lies in the county where the limited liability company's principal office (or, if none in this State, its registered office) is or was last located.~~"

Section 5.3. Article 6 of Chapter 57C is amended by adding a new section to read:

"*§ 57C-6-02.1. Procedure for judicial dissolution.*

(a) Venue for a proceeding to dissolve a limited liability company lies in the county where the limited liability company's principal office (or, if none in this State, its registered office) is or was last located.

(b) It is not necessary to join members as parties to a proceeding to dissolve a limited liability company unless relief is sought against them individually, however the court shall order that appropriate notice of the dissolution proceeding be given to all members by the party initiating the proceeding.

(c) A court in a proceeding brought to dissolve a limited liability company may issue injunctions, appoint a receiver with all powers and duties the court directs, take other action required to preserve the assets of the limited liability company, wherever located, and carry on the business of the limited liability company.

(d) In any proceeding brought by a member under G.S. 57C-6-02(2)(ii) in which the court determines that dissolution would be appropriate, the court shall not order dissolution if, after the court's determination, the limited liability company elects to purchase the membership interest of the complaining member at its fair value, as determined in accordance with any procedures the court may provide."

Section 5.4. Article 6 of Chapter 57C is amended by adding a new section to read:

"*§ 57C-6-02.2. Receivership.*

(a) A court in a judicial proceeding brought to dissolve a limited liability company may appoint one or more receivers to wind up or to manage the business and affairs of the limited liability company. Before appointing a receiver, the court shall hold a hearing after notifying all parties to the proceeding and any interested persons designated by the court. The court appointing a receiver has exclusive jurisdiction over the limited liability company and all of its property, wherever located.

(b) The court may appoint an individual or other person as a receiver. The court may require the receiver to post bond, with or without sureties, in an amount the court directs.

(c) The court shall describe the powers and duties of the receiver in its appointing order, which may be amended from time to time. The powers may include the authority to:

(1) Dispose of all or any part of the assets of the limited liability company wherever located, at a public or private sale, if authorized by the court;

(2) Sue and defend in the receiver's own name as receiver of the limited liability company in all courts of this State; and

(3) Exercise all of the powers of the limited liability company, through or in place of its managers, to the extent necessary to manage the affairs of the limited liability company in the best interests of its members and creditors.

(d) From time to time during the receivership, the court may order compensation paid and expense disbursements or reimbursements made to the receiver and the receiver's counsel from the assets of the limited liability company or proceeds from the sale of the assets."

Section 5.5. Article 6 of Chapter 57C is amended by adding a new section to read:

"*§ 57C-6-02.3. Decree of dissolution.*

(a) If, after a hearing, the court determines that one or more grounds for judicial dissolution described in G.S. 57C-6-02 exist, it may enter a decree dissolving the limited liability company and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Secretary of State, who shall file it.

(b) After entering the decree of dissolution, the court shall direct the winding up of the limited liability company's business and affairs in accordance with G.S. 57C-6-04 and G.S. 57C-6-05 and the notification of claimants in accordance with G.S. 57C-6-07 and G.S. 57C-6-08."

PART VI. ASSUMED NAME.

Section 6. G.S. 66-68 reads as rewritten:

"*§ 66-68. Certificate to be filed; contents; exemption of certain partnerships and limited liability companies engaged in rendering professional services; withdrawal or transfer of assumed name.*

(a) Unless exempt under subsection (e) hereof, before any person or partnership engages in business in any county in this State under an assumed name or under any designation, name or style other than the real name of the owner or owners thereof, before any limited partnership engaged in business in any county in this State other than under the name set out in the Certificate filed with the Office of the Secretary of ~~State~~ State, before any limited liability company engages in business in any county other than under the name set out in the articles of organization filed with the Office of the Secretary of State, or before a corporation engages in business in any county other than under its corporate name, such person, partnership, limited partnership, limited liability company, or corporation must file in the office of the register of deeds of such county a certificate giving the following information:

(1) The name under which the business is to be conducted; and

(2) The name and address of the owner, or if there is more than one owner, the name and address of each.

(b) If the owner is an individual or a partnership, the certificate must be signed and duly acknowledged by the individual owner, or by each general partner. If the owner is a ~~corporation,~~ corporation or limited liability company, it must be signed in the name of the corporation or limited liability company and duly acknowledged as provided by G.S. 47-41.01 or G.S. 47-41.02.

(c) Whenever a general partner withdraws from or a new general partner joins a partnership, a new certificate shall be filed. For limited partnerships, the requirement of this subsection (c) shall be deemed satisfied if the partnership is identified as the owner as provided in subsection (a) and the partnership's certificate of limited partnership is amended as provided in G.S. 59-202.

(d) It is not necessary that any person, partnership, limited liability company, or corporation file such certificate in any county where no place of business is maintained and where the only business done in such county is the sale of goods by sample or by traveling agents or by mail.

(e) Any partnership or limited liability company engaged in rendering professional services, as defined in G.S. 55B-2(6), in this State, shall be exempt from the requirements of this section if it shall file annually with the licensing board responsible for regulating the rendering of such professional services, or at such intervals as shall be designated from time to time by such licensing board, a listing of the names and addresses of its ~~partners.~~ partners or members. The listing shall be open to public inspection during normal working hours.

(f) Any person, partnership, limited liability company, or corporation executing and filing a certificate of assumed name as required by this section may, upon ceasing to engage in business in this State under the assumed name, withdraw the assumed name or transfer the assumed name to any other person, partnership, or corporation by filing in the office of the register of deeds of the county in which the certificate of assumed name is filed a certificate of withdrawal or a certificate of transfer executed as provided in subsection (b) of this section and setting forth:

(1) The assumed name being withdrawn or transferred;
(2) The date of filing of the certificate of assumed name;
(3) The name and address of the owner or owners of the business;
(4) A statement that such owner or owners have ceased engaging in business under the assumed name;
(5) If the assumed name is to be withdrawn, the effective date (which shall be a date certain but not more than 20 days from the date of filing) of the withdrawal if it is not to be effective upon the filing of the certificate of withdrawal; and
(6) If the assumed name is to be transferred, the name and address of the transferee or transferees, and the effective date (which shall be a date certain but not more than 20 days from the date of filing) of the transfer if it is not to be effective upon the filing of the certificate of transfer. This subsection does not relieve a transferee of the obligation to file a certificate of assumed name as required by this Article."

PART VII. EFFECTIVE DATE.

Section 7. This act is effective when it becomes law, applies to limited liability companies in existence or formed on or after January 1, 1999, and applies to actions commenced on or after October 1, 1999.

In the General Assembly read three times and ratified this the 8th day of June, 1999.

Became law upon approval of the Governor at 10:06 p.m. on the 18th day of June, 1999.

H.B. 262 **SESSION LAW 1999-190**

AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CUSTODY OF ABUSED, NEGLECTED, OR DEPENDENT JUVENILES IN THE CUSTODY OR AUTHORITY OF THE COUNTY DEPARTMENTS OF SOCIAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7B-101(3), as enacted in Section 6 of S.L. 1998-202, reads as rewritten:

"(3) Caretaker. -- Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, ~~or~~ any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational ~~facility.~~ facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. "Caretaker" also means any person who has the responsibility for the care of a juvenile in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only."

Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as amended by Section 19 of S.L. 1998-229, reads as rewritten:

"(b) When a report of a juvenile's death as a result of suspected maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in a noninstitutional setting is received, the director of the department of social services shall immediately ascertain if other juveniles ~~remain~~ live in the home, and, if so, initiate an investigation in order to determine whether they require protective services or whether immediate removal of the juveniles from the home is necessary for their protection. When a report of a juvenile's death as a result of maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in an institutional setting such as a residential child care facility or residential educational facility is received, the director of the department of social services shall immediately ascertain if other juveniles remain in the facility subject to the alleged perpetrator's care or supervision, and, if so, assess the

circumstances of those juveniles in order to determine whether they require protective services or whether immediate removal of those juveniles from the facility is necessary for their protection."

Section 3. G.S. 108A-49 reads as rewritten:

"§ *108A-49. Foster care and adoption assistance payments.*

(a) Benefits in the form of foster care assistance shall be granted in accordance with the rules of the Social Services Commission to any dependent child who would have been eligible to receive Aid to Families with Dependent Children (as that program was in effect on June 1, 1995), but for his or her removal from the home of a specified relative for placement in a foster care facility; provided, that the child's placement and care is the responsibility of a county department of social services. A county department of social services shall pay, at a minimum, the monthly graduated foster care assistance payments for eligible children as set by the General Assembly. A county department of social services may make foster care assistance payments in excess of the monthly graduated rates set by the General Assembly.

(b) Adoption assistance payments for certain adoptive children shall be granted in accordance with the rules of the Social Services Commission to adoptive parents who adopt a child eligible to receive foster care maintenance payments or supplemental security income benefits; provided, that the child cannot be returned to his or her parents; and provided, that the child has special needs which create a financial barrier to adoption. A county department of social services shall pay, at a minimum, the monthly graduated adoption assistance payments for eligible children as set by the General Assembly. A county department of social services may make adoption assistance payments in excess of the monthly graduated rates set by the General Assembly.

(c) The Department is authorized to use available federal payments to states under Title IV-E of the Social Security Act for foster care and adoption assistance payments."

Section 4. G.S. 143B-150.20, as enacted by Section 12.22 of S.L. 1998-212 and as amended by Section 13(oo) of S.L. 1998-202, reads as rewritten:

"§ *143B-150.20. State Child Fatality Review Team; establishment; purpose; powers; duties.*

There is established in the Department of Health and Human Services, Division of Social Services, a State Child Fatality Review Team to conduct in-depth reviews of any child fatalities which have occurred involving children and families involved with local departments of social services child protective services in the 12 months preceding the fatality. Steps in this in-depth review shall include interviews with any individuals determined to have pertinent information as well as examination of any written materials containing pertinent information.

The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services

shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities. These findings shall not be admissible as evidence in any civil or administrative proceedings against individuals or entities that participate in child fatality reviews conducted pursuant to this section. The State Child Fatality Review Team shall consult with the appropriate district attorney in accordance with G.S. 7B-2902(d) prior to the public release of the findings and recommendations.

The State Child Fatality Review Team shall include representatives of the local departments of social services and the Division of Social Services, a member of the local Community Child Protection Team, a member of the local child fatality prevention team, a representative from local law enforcement, a prevention specialist, and a medical professional.

The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. The State Child Fatality Review Team may receive a copy of any reviewed materials necessary to the conduct of the fatality review. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.

Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of closed sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any executive session shall be sealed from public inspection.

All otherwise confidential information and records acquired by the State Child Fatality Review Team, in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings except pursuant to an order of the court; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. In addition, all otherwise confidential information and records created by the State Child Fatality Review Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. No member of the State Child Fatality Review Team, nor any person who attends a meeting of the State Child Fatality Review Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This

subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

Each member of the State Child Fatality Review Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality."

Section 5. Chapter 7B of the General Statutes is amended by adding a new Article to read:

"ARTICLE 39.

"Interstate Compact on Adoption and Medical Assistance.

"*§ 7B-3900. Legislative findings and purposes.*

(a) Finding adoptive families for children, for whom state assistance is desirable pursuant to G.S. 108A-49 and G.S. 108A-50, and assuring the protection of the interests of the children affected during the entire assistance period require special measures when the adoptive parents move to another state or are residents of another state. Additionally, the provision of medical and other necessary services for children receiving State assistance encounters special difficulties when the provision of services takes place in another state.

(b) In recognition of the need for special measures, the General Assembly authorizes the Secretary of the Department of Health and Human Services to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Department of Health and Human services and to provide procedures for interstate adoption assistance payments, including payments for medical services.

"*§ 7B-3901. Definitions.*

Unless the context requires otherwise, as used in this Article:

(1) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or any territory or possession subject to the jurisdiction of the United States.

(2) 'Adoption assistance state' means the state that is a signatory to an adoption assistance agreement in a particular case.

(3) 'Residence state' means the state where the child is living.

"*§ 7B-3902. Compacts authorized.*

The Secretary of the Department of Health and Human Services may develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this State with other states to implement this Article. When entered into, and for so long as it remains in force, such a compact shall have the full force and effect of law.

"*§ 7B-3903. Content of compacts.*

(a) A compact under this Article shall contain all of the following provisions:

(1) A provision making it available for joinder by all states.

(2) A provision for withdrawal from the compact upon written notice to the parties, with a period of at least one year between the date of the notice and effective date of the withdrawal.

(3) A requirement that the protections afforded by or under the compact continue in force for the duration of the adoption assistance and apply to all children and their adoptive parents who, on the effective date of the withdrawal, are receiving adoption assistance from a party state other than the state in which they are a resident and have their principal place of abode.

(4) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance and that any such agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state child welfare agency providing the adoption assistance.

(5) Any other provisions appropriate to implement the proper administration of the compact.

(b) A compact entered into under this Article may contain any of the following provisions:

(1) Provisions establishing procedures and entitlement to medical and other necessary social services for the child in accordance with applicable laws, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the expense thereof.

(2) Any other provisions appropriate or incidental to the proper administration of the compact.

"§ *7B-3904. Medical assistance.*

(a) A child with special needs who is a resident of this State who is the subject of an adoption assistance agreement with another state shall be accepted as being entitled to receive medical assistance certification from this State upon the filing in the department of social services of the county in which the child resides a certified copy of the adoption assistance agreement obtained from the adoption assistance state.

(b) The Division of Medical Assistance shall consider the holder of a medical assistance certification under this section to be entitled to the same medical benefits under the laws of this State as any other holder of a medical assistance certification and shall process and make payment on claims on account of that holder in the same manner and under the same conditions and procedures that apply to other recipients of medical assistance.

(c) The provisions of this section apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this State under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this State.

"§ *7B-3905. Federal participation.*

The Department of Health and Human Services, in connection with the administration of this Article and any compact entered into pursuant to this Article, shall include the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost in any state plan made pursuant to the Adoption Assistance and Child Welfare

Act of 1980 (P.L. 96-272), Titles IV (E) and XIX of the Social Security Act and any other applicable federal laws. The Department shall apply for and administer all relevant federal aid in accordance with law.

"*§ 7B-3906. Compact administrator.*

The Secretary of the Department of Health and Human Services may appoint a Compact Administrator who shall be the general coordinator of activities under this Compact in this State and who, acting jointly with like officers of other party states, may promulgate rules to carry out more effectively the terms and provisions of this Compact."

Section 6. Section 5 of this act becomes effective October 1, 1999. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of June, 1999.

Became law upon approval of the Governor at 10:08 p.m. on the 18th day of June, 1999.

S.B. 325 **SESSION LAW 1999-191**

AN ACT TO MAKE CORRECTIONS AND CONFORMING CHANGES RELATING TO TAXATION OF CONTINUING CARE RETIREMENT HOMES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.6A(c)(4) reads as rewritten:

"(c) Qualification. -- A retirement facility qualifies for the benefits of this section if it meets all of the following conditions:

. . .

(4) Its charter or ~~bylaws, as they existed on August 15, 1998,~~ bylaws provide that it is governed by a board of directors or trustees at least a majority of whose members are selected by one or more nonprofit corporations or associations that meet all of the following conditions:

a. It is exempt under section ~~501(c)(3)~~ 501(c)(3), (8), or (10) of the Code.

b. It is organized for a charitable purpose as defined in G.S. 105-278.6.

c. It is not a private foundation as defined in section 509 of the Code."

Section 2. G.S. 105-275.2 is amended by adding a new subsection to read:

"(f) Additional Reduction. -- Each year, on or before July 15, the governing body of each county and each municipality shall notify the Secretary of the amount of taxes it collected in the preceding fiscal year from taxes on qualified retirement facility property, as defined in G.S. 105-278.6A, discovered on or after January 1, 1998, for taxable years beginning on or after July 1, 1992. The Secretary shall reduce the amount allocated to each county and municipality for distribution the following August by one hundred ten percent (110%) of the amount the county or municipality reports pursuant to this subsection."

Section 3. The Legislative Research Commission shall conduct a comprehensive study of property tax exemptions for nonprofit institutions, including the history and evolution of such exemptions in North Carolina, the policy reasons for property tax exemptions, the effect of the exemptions on local governments and on other taxpayers, the extent to which other states provide property tax exemptions for nonprofit institutions, and any other issues it considers relevant. The Legislative Research Commission shall make a final report of its findings and recommendations to the 2000 Regular Session of the 1999 General Assembly.

Section 4. Section 2 of this act is effective on and after July 1, 1998, and expires September 1, 2003. Section 3 of this act is effective when it becomes law. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1998. Notwithstanding G.S. 105-275.2(f), as enacted by this act, the report otherwise due under that subsection on July 15, 1998, is due on July 15, 1999.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law upon approval of the Governor at 10:10 p.m. on the 18th day of June, 1999.

S.B. 389 **SESSION LAW 1999-192**

AN ACT TO CLARIFY THE 1998 CHANGE IN THE LAW GOVERNING THE FILING OF FINANCIAL REPORTS BY SMALL TOWN OR COUNTY MUTUALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-2-165 reads as rewritten:

"*§ 58-2-165. Annual, semiannual, monthly, or quarterly statements to be filed with Commissioner.*

(a) ~~Every~~ Except as provided in subsection (a1) of this section, every insurance company shall file in the Commissioner's office, on or before March 1 of each year, a statement showing the business standing and financial condition of the company, association, or order on the preceding December 31, signed and sworn to by the chief managing agent or officer thereof, before the Commissioner or some officer authorized by law to administer oaths. Provided, the Commissioner may, for good and sufficient cause shown by an applicant company, extend the filing date of the company's annual statement, for a reasonable period of time, not to exceed 30 days. In addition, except as provided in subsection (a1) of this section, the Commissioner may require any insurance company, association, or order to file its statement semiannually, quarterly, or ~~monthly, except that a town or county mutual, organized under G.S. 58-7-75(5)d., is required to file only an annual statement or an audited financial statement that was prepared by a certified public accountant if for the preceding year it had a direct written premium of less than one hundred fifty thousand dollars ($150,000) and fewer than 400 policyholders.~~ monthly.

(a1) A town or county mutual, organized under G.S. 58-7-75(5)d., is required to file only an annual statement or an audited financial statement

that was prepared by a certified public accountant if for the preceding year it had a direct written premium of less than one hundred fifty thousand dollars ($150,000) and fewer than 400 policyholders. The Commissioner shall not require those mutuals to file statements semiannually, quarterly, or monthly.

(b) The Commissioner may require statements under this section, G.S. 58-2-170, and G.S. 58-2-190 to be filed in a format that can be read by electronic data processing ~~equipment.~~ equipment, provided that this subsection does not apply to an audited financial statement prepared by a certified public accountant that is submitted by a town or county mutual pursuant to subsection (a1) of this section.

(c) ~~All~~ Except as provided herein, all statements filed under this section must be prepared in accordance with the appropriate NAIC Annual Statement Instructions Handbook and pursuant to the NAIC Accounting Practices and Procedures Manual and on the NAIC Model Financial Statement Blank, unless further modified by the Commissioner as the Commissioner considers to be appropriate. This subsection does not apply to statements filed by a town or county mutual organized under G.S. 58-7-75(5)d. if for the preceding year it had a direct written premium of less than one hundred fifty thousand dollars ($150,000) and fewer than 400 policyholders."

Section 2. This act is effective retroactively to October 30, 1998.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law upon approval of the Governor at 10:12 p.m. on the 18th day of June, 1999.

H.B. 96 **SESSION LAW 1999-193**

AN ACT TO RESTORE AND APPLY RETROACTIVELY THE EXEMPTION FROM LICENSURE FOR CERTAIN ADULT CARE HOMES MAINTAINED OR OPERATED BY A UNIT OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131D-2(c) reads as rewritten:

"(c) The following are excluded from the provisions of this section and are not required to be registered or obtain licensure under this section:

(1) Facilities licensed under Chapter 122C or Chapter 131E of the General Statutes;

(2) Persons subject to rules of the Division of Vocational Rehabilitation Services;

(3) Facilities that care for no more than four persons, all of whom are under the supervision of the United States Veterans Administration; ~~and~~

(4) Facilities that make no charges for housing, amenities, or personal care service, either directly or ~~indirectly.~~ indirectly; and

(5) Institutions that are maintained or operated by a unit of government and that were established, maintained, or operated by

a unit of government and exempt from licensure by the Department on September 30, 1995."

Section 2. This act is effective on and after September 30, 1995.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law upon approval of the Governor at 10:15 p.m. on the 18th day of June, 1999.

H.B. 980 **SESSION LAW 1999-194**

AN ACT TO ALLOW JUDICIAL DISCRETION IN DETERMINING THE AMOUNT OF SUBROGATION OF EMPLOYERS' LIENS IN ACTIONS AGAINST THIRD PARTIES UNDER THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-10.2(j) reads as rewritten:

"(j) Notwithstanding any other subsection in this section, in the event that a judgment is obtained ~~which is insufficient to compensate the subrogation claim of the Workers' Compensation Insurance Carrier,~~ by the employee in an action against a third party, or in the event that a settlement has been agreed upon by the employee and the third party, either party may apply to the resident superior court judge of the county in which the cause of action arose, where the injured employee resides or the presiding judge before whom the cause of action is pending, to determine the subrogation amount. After notice to the employer and the insurance carrier, after an opportunity to be heard by all interested parties, and with or without the consent of the employer, the judge shall determine, in his discretion, the amount, if any, of the employer's ~~lien~~ lien, whether based on accrued or prospective workers' compensation benefits, and the amount of cost of the third-party litigation to be shared between the employee and employer. The judge shall consider the anticipated amount of prospective compensation the employer or workers' compensation carrier is likely to pay to the employee in the future, the net recovery to plaintiff, the likelihood of the plaintiff prevailing at trial or on appeal, the need for finality in the litigation, and any other factors the court deems just and reasonable, in determining the appropriate amount of the employer's lien. If the matter is pending in the federal district court such determination may be made by a federal district court judge of that division."

Section 2. This act is effective when it becomes law and applies to judgments or settlements entered against third parties on or after that date pursuant to G.S. 97-10.2.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law upon approval of the Governor at 10:15 p.m. on the 18th day of June, 1999.

H.B. 991 **SESSION LAW 1999-195**

AN ACT TO CLARIFY THAT LIABILITY, UNINSURED, AND UNDERINSURED COVERAGE IS NOT REDUCED BY RECEIPT OF SUBROGATED WORKERS' COMPENSATION BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.21(e) reads as rewritten:

"(e) ~~Such~~ Uninsured or underinsured motorist coverage that is provided as part of a motor vehicle liability policy ~~need not~~ shall insure ~~against~~ that portion of a loss ~~from any liability for which benefits are in whole or in part either payable or required to be provided under~~ uncompensated by any workers' compensation law ~~nor~~ and the amount of an employer's lien determined pursuant to G.S. 97-10.2 (h) or (j). In no event shall this subsection be construed to require that coverage exceed the applicable uninsured or underinsured coverage limits of the motor vehicle policy or allow a recovery for damages already paid by workers' compensation. The policy need not insure a loss from any liability for damage to property owned by, rented to, in charge of or transported by the insured."

Section 2. This act becomes effective October 1, 1999, and applies to policies issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law upon approval of the Governor at 10:17 p.m. on the 18th day of June, 1999.

H.B. 277 **SESSION LAW 1999-196**

AN ACT AMENDING THE EMPLOYMENT SECURITY LAWS TO PROVIDE THAT AN INDIVIDUAL MAY NOT BE DISQUALIFIED FOR UNEMPLOYMENT INSURANCE BENEFITS WHEN THE INDIVIDUAL'S INABILITY TO ACCEPT BONA FIDE PERMANENT EMPLOYMENT DURING A PARTICULAR SHIFT WOULD RESULT IN AN UNDUE FAMILY HARDSHIP AND TO PROVIDE THAT AN INDIVIDUAL MAY NOT BE DISQUALIFIED FOR UNEMPLOYMENT INSURANCE BENEFITS WHEN THE INDIVIDUAL'S DISCHARGE IS SOLELY DUE TO AN INABILITY TO ACCEPT WORK DURING A PARTICULAR SHIFT AS THE RESULT OF AN UNDUE FAMILY HARDSHIP.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-8 is amended by adding a new subdivision to read:

"(10a) 'Undue family hardship' arises when an individual is unable to accept a particular shift because the individual is unable to obtain (i) child care during that shift for a minor child under 14 years of age who is in the legally recognized custody of the

individual or (ii) elder care during that shift for an aged or disabled parent of the individual."

Section 2. G.S. 96-8(24) reads as rewritten:

"(24) Work, for purposes of this Chapter, means any bona fide permanent ~~employment.~~ employment the acceptance of which would not result in an undue family hardship as defined in G.S. 96-8(10a). For purposes of this definition, 'bona fide permanent employment' is presumed to include only those employments of greater than 30 consecutive calendar days duration (regardless of whether work is performed on all those days) provided: (a) the presumption that an employment lasting 30 days or less is not bona fide permanent employment may be rebutted by a finding by the Commission, either on its own motion or upon a clear and convincing showing by an interested party that the application of the presumption would work a substantial injustice in view of the intent of this Chapter; (b) Any decision of the Commission on the question of bona fide employment may be disturbed on judicial review only upon a finding of plain error."

Section 3. G.S. 96-9(c)(2)b. reads as rewritten:

"b. Any benefits paid to any claimant under a claim filed for a period occurring after the date of such separations as are set forth in this paragraph and based on wages paid prior to the date of (i) the leaving of work by the claimant without good cause attributable to the employer; (ii) the discharge of claimant for misconduct in connection with his work; (iii) the discharge of the claimant for substantial fault as that term may be defined in G.S. 96-14; (iv) the discharge of the claimant solely for a bona fide inability to do the work for which he was hired but only where the claimant was hired pursuant to a job order placed with a local office of the Commission for referrals to probationary employment (with a probationary period no longer than 100 days), which job order was placed in such circumstances and which satisfies such conditions as the Commission may by regulation prescribe and only to the extent of the wages paid during such probationary employment; (v) separations made disqualifying under G.S. 96-14(2b) and (6a); ~~or~~ (vi) separation due to leaving for disability or health ~~condition~~ condition; or (vii) separation of claimant solely as the result of an undue family hardship shall not be charged to the account of the employer by whom the claimant was employed at the time of such separation; provided, however, said employer promptly furnishes the Commission with such notices regarding any separation of the individual from work as are or may be required by the regulations of the Commission.

No benefit charges shall be made to the account of any employer who has furnished work to an individual who, because of the loss of employment with one or more other

employers, becomes eligible for partial benefits while still being furnished work by such employer on substantially the same basis and substantially the same amount as had been made available to such individual during his base period whether the employments were simultaneous or successive; provided, that such employer makes a written request for noncharging of benefits in accordance with Commission regulations and procedures.

No benefit charges shall be made to the account of any employer for benefit years ending on or before June 30, 1992, where benefits were paid as a result of a discharge due directly to the reemployment of a veteran mandated by the Veteran's Reemployment Rights Law, 38 USCA § 2021, et seq.

No benefit charges shall be made to the account of any employer where benefits are paid as a result of a decision by an Adjudicator, Appeals Referee or the Commission if such decision to pay benefits is ultimately reversed; nor shall any such benefits paid be deemed to constitute an overpayment under G.S. 96-18(g)(2), the provisions thereof notwithstanding. Provided, an overpayment of benefits paid shall be established in order to provide for the waiting period required by G.S. 96-13(c)."

Section 4. G.S. 96-14 is amended by adding a new subdivision to read:

"(1g) For purposes of this Chapter, separation or discharge solely due to an inability to accept work during a particular shift as a result of an undue family hardship shall constitute good cause for leaving work. Benefits paid on the basis of this section shall not be charged to the account of the employer."

Section 5. This act becomes effective July 1, 1999, and applies to unemployment insurance claims filed on or after that date. This act expires June 30, 2001.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

Became law upon approval of the Governor at 10:19 p.m. on the 18th day of June, 1999.

H.B. 314 **SESSION LAW 1999-197**

AN ACT TO REQUIRE HEALTH AND ACCIDENT INSURANCE POLICIES, HOSPITAL OR MEDICAL SERVICES PLANS, AND HMO PLANS TO PROVIDE COVERAGE FOR BONE MASS MEASUREMENT FOR THE DIAGNOSIS AND EVALUATION OF OSTEOPOROSIS.

Whereas, osteoporosis or low bone mass is a public health hazard to over one million North Carolinians age 50 and over; and

Whereas, each year more than 13,000 North Carolinians are hospitalized for hip fractures alone resulting in more than $57 million in direct medical costs; and

Whereas, osteoporosis or low bone mass is a silent disease, typically undiagnosed until a fracture occurs, and once a fracture occurs, osteoporosis or low bone mass is already substantially advanced and has a high risk of additional fractures; and

Whereas, one of two women over age 50 and one of eight men over age 50 will suffer at least one osteoporotic fracture during late life; and

Whereas, osteoporosis or low bone mass has no cure, pharmaceutical or otherwise, but prevention, early diagnosis, and treatment can be key to reducing the prevalence of this disease as well as its negative impact on individuals; and

Whereas, osteoporosis or low bone mass not only increases the likelihood of fracture and nursing home placement but also increases the risk of depression, loss of self-esteem, anxiety, chronic pain, poor social relationships, and loss of employment; and

Whereas, it is cost-effective to mandate coverage of bone mass measurement because it leads to early diagnosis, intervention, and prevention of fracture and, therefore, reduces unnecessary health care expenditures; and

Whereas, bone mass measurement reliably detects low bone mass and helps to ascertain the extent of bone loss to determine an individual's future fracture risk which helps individuals and health care professionals to select appropriate therapies and interventions; and

Whereas, conventional X rays cannot accurately diagnose osteoporosis or low bone mass in the absence of fracture; and

Whereas, scientifically proven technologies for bone mass measurement and other services related to the diagnosis and treatment of osteoporosis or low bone mass can be used effectively to reduce the physical, emotional, social, and financial burden that this disease inflicts upon its victims; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 2000, Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-3-174. Coverage for bone mass measurement for diagnosis and evaluation of osteoporosis or low bone mass.*

(a) Every entity providing a health benefit plan shall provide coverage for a qualified individual for scientifically proven and approved bone mass measurement for the diagnosis and evaluation of osteoporosis or low bone mass. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the plan shall apply to coverage for bone mass measurement.

(b) A health benefit plan may provide that bone mass measurement will be covered if at least 23 months have elapsed since the last bone mass measurement was performed, except that a plan must provide coverage for follow-up bone mass measurement performed more frequently than every 23 months if the follow-up measurement is medically necessary. Conditions

under which more frequent bone mass measurement coverage may be medically necessary include, but are not limited to:

(1) Monitoring beneficiaries on long-term glucocorticoid therapy of more than three months.

(2) Allowing for a central bone mass measurement to determine the effectiveness of adding an additional treatment regimen for a qualified individual who is proven to have low bone mass so long as the bone mass measurement is performed 12 to 18 months from the start date of the additional regimen.

(c) Nothing in this section shall be construed to require health benefit plans to cover screening for nonqualified individuals.

(d) As used in this section, the term:

(1) 'Bone mass measurement' means a scientifically proven radiologic, radioisotopic, or other procedure performed on a qualified individual to identify bone mass or detect bone loss for the purpose of initiating or modifying treatment.

(2) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina Department of Health and Human Services or the United States Department of Health and Human Services, or any successor agency, or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

a. Accident
b. Credit
c. Disability income
d. Long-term care or nursing home care
e. Medicare supplement
f. Specified disease
g. Dental or vision
h. Short-term limited duration coverage
i. Coverage issued as a supplement to liability insurance
j. Workers' compensation
k. Medical payments under automobile or homeowners
l. Hospital income or indemnity
m. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.

(3) 'Insurer' includes an insurance company subject to this Chapter, a service corporation organized under Article 65 of this Chapter, a health maintenance organization organized under Article 67 of this

Chapter, and a multiple employer welfare arrangement subject to Article 49 of this Chapter.

(4) 'Qualified individual' means any one or more of the following:

a. An individual who is estrogen-deficient and at clinical risk of osteoporosis or low bone mass.

b. An individual with radiographic osteopenia anywhere in the skeleton.

c. An individual who is receiving long-term glucocorticoid (steroid) therapy.

d. An individual with primary hyperparathyroidism.

e. An individual who is being monitored to assess the response to or efficacy of commonly accepted osteoporosis drug therapies.

f. An individual who has a history of low-trauma fractures.

g. An individual with other conditions or on medical therapies known to cause osteoporosis or low bone mass."

Section 2. Effective January 1, 2000, G.S. 58-50-155 reads as rewritten:

"*§ 58-50-155. Standard and basic health care plan coverages.*

(a) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for ~~mammograms and pap smears at least equal to the coverage required by G.S. 58-51-57.~~

~~(a1) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer at least equal to the coverage required by G.S. 58-51-58.~~

~~(a2) Notwithstanding G.S. 58-50-123(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by G.S. 58-51-62.~~ all of the following:

(1) Mammograms and pap smears at least equal to the coverage required by G.S. 58-51-57.

(2) Prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer at least equal to the coverage required by G.S. 58-51-58.

(3) Reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by G.S. 58-51-62.

(4) For a qualified individual, scientifically proven bone mass measurement for the diagnosis and evaluation of osteoporosis or low bone mass at least equal to the coverage required by G.S. 58-3-174.

(b) Notwithstanding G.S. 58-50-125(c), in developing and approving the plans under G.S. 58-50-125, the Committee and Commissioner shall give due consideration to cost-effective and life-saving health care services and to cost-effective health care providers. ~~This section shall be effective after July 10, 1991.~~"

Section 3. This act is effective when it becomes law and applies to health benefit plans that are delivered, issued for delivery, or renewed on and after January 1, 2000. For purposes of this act, renewal of a health

benefit plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 1:10 p.m. on the 21st day of June, 1999.

S.B. 1159 **SESSION LAW 1999-198**

AN ACT TO EXPAND THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MAY ALLOW THE USE OF LAND-USE RESTRICTIONS TO PROTECT PUBLIC HEALTH AT CONTAMINATED SITES.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding two new sections to read:

"*§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.*

In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. If the remedial action is risk-based or will not require that the site meet current standards, as defined in G.S. 130A-310.31, the remedial action plan must include an agreement by the owner, operator, or other responsible party to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.10. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner, operator, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided by any provision of law that is implemented or enforced by the Department or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who

owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

"*§ 143B-279.10. Recordation of contaminated sites.*

(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in G.S. 143B-279.9 shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled 'NOTICE OF CONTAMINATED SITE'. Where a contaminated site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

(1) The location and dimensions of any disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location, and quantity of contamination known to the owner of the site to exist on the site.

(3) Any restriction approved by the Department on the current or future use of the site.

(b) After the Department approves and certifies the Notice, the owner of the site shall file the certified copy of the Notice in the register of deeds office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

(c) The register of deeds shall record the certified copy of the Notice and index it in the grantor index under the names of the owners of the land.

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(e) When a contaminated site that is subject to current or future land-use restrictions is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property is a contaminated site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Contaminated Site filed pursuant to this section may, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been eliminated. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been eliminated and request that the Notice be cancelled of record. The Secretary's statement shall contain the

names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name 'Secretary of Environment and Natural Resources'. The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry."

Section 2. This act becomes effective 1 October 1999.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 1:12 p.m. on the 21st day of June, 1999.

H.B. 714 **SESSION LAW 1999-199**

AN ACT TO PROVIDE FOR DIRECT PAYMENT OF CERTIFIED SUBSTANCE ABUSE PROFESSIONALS UNDER HEALTH INSURANCE POLICIES AND PLANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-50-30 reads as rewritten:

"*§ 58-50-30. Discrimination forbidden; right to choose services of optometrist, podiatrist, certified clinical social worker, certified substance abuse professional, dentist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, or advanced practice registered nurse.*

(a) Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by Articles 50 through 55 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of the policy, or in any other manner whatsoever, is prohibited.

Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for payment of or reimbursement for any service rendered in connection with a condition or complaint which is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the services, whether the services be performed by a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, or an advanced practice

registered nurse, notwithstanding any provision contained in the policy. Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability that is within the scope of practice of a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute.

Whenever any policy of insurance provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) For the purposes of this section, a 'duly licensed psychologist' shall be defined only to include a psychologist who is duly licensed in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Service Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(c) For the purposes of this section, a 'duly certified clinical social worker' is a 'certified clinical social worker' as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

(c1) For purposes of this section, a 'duly certified fee-based practicing pastoral counselor' shall be defined only to include fee-based practicing pastoral counselors certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

(c2) For purposes of this section, a 'duly certified substance abuse professional' is a person certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

(d) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;
(2) The policy currently provides benefits for identical services performed by other licensed health care providers;
(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;
(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and
(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.

For purposes of this section, an 'advanced practice registered nurse' means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(e) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

(1) The service performed is within the lawful scope of practice of the pharmacist;
(2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;
(3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
(4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service."

Section 2. G.S. 58-65-1 reads as rewritten:

"*§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign corporations prohibited.*

(a) Any corporation heretofore or hereafter organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital care and/or medical and/or dental service may be provided in whole or in part by said corporation or by hospitals and/or physicians and/or dentists participating in such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this State, heretofore enacted, unless specifically designated herein, and no laws hereafter enacted shall apply to them unless they be expressly designated therein.

The term 'hospital service plan' as used in this Article and Article 66 of this Chapter includes the contracting for certain fees for, or furnishing of, hospital care, laboratory facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment,

accommodations and/or any and all other services authorized or permitted to be furnished by a hospital under the laws of the State of North Carolina and approved by the North Carolina Hospital Association and/or the American Medical Association.

The term 'medical service plan' as used in this Article and Article 66 of this Chapter includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical and/or any other professional services authorized or permitted to be furnished by a duly licensed physician, except that in any plan in any policy of insurance governed by this Article and Article 66 of this Chapter that includes services which are within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly certified clinical social worker, a duly certified substance abuse professional, a duly certified fee-based practicing pastoral counselor, and a duly licensed physician, then the insured or beneficiary shall have the right to choose the provider of the care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly certified clinical social worker, a duly certified substance abuse professional, a duly certified fee-based practicing pastoral counselor, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy. The term 'medical services plan' also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes.

(b) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;

(2) The policy currently provides benefits for identical services performed by other licensed health care providers;

(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and

(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.

(b1) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

(1) The service performed is within the lawful scope of practice of the pharmacist;

(2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;

(3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and

(4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service.

(c) For purposes of this section, an 'advanced practice registered nurse' means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

For the purposes of this section, a 'duly certified clinical social worker' is a 'certified clinical social worker' as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

For purposes of this section, a 'duly certified fee-based practicing pastoral counselor' shall be defined only to include fee-based practicing pastoral counselors certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

For the purposes of this section, a 'duly licensed psychologist' shall be defined only to include a psychologist who is duly licensed in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

For purposes of this section, a 'duly certified substance abuse professional' is a person certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

The term 'dental service plan' as used in this Article and Article 66 of this Chapter includes contracting for the payment of fees toward, or furnishing of dental and/or any other professional services authorized or permitted to be furnished by a duly licensed dentist.

The insured or beneficiary of every 'medical service plan' and of every 'dental service plan,' as those terms are used in this Article and Article 66 of this Chapter, or of any policy of insurance issued thereunder, that includes services which are within the scope of practice of both a duly licensed physician and a duly licensed dentist shall have the right to choose the provider of such care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed physician or a duly licensed dentist notwithstanding any provision to the contrary contained in any such plan or policy.

The term 'hospital service corporation' as used in this Article and Article 66 of this Chapter is intended to mean any nonprofit corporation operating a hospital and/or medical and/or dental service plan, as herein defined. Any corporation heretofore or hereafter organized and coming within the provisions of this Article and Article 66 of this Chapter, the certificate of incorporation of which authorizes the operation of either a hospital or medical and/or dental service plan, or any or all of them, may, with the approval of the Commissioner of Insurance, issue subscribers' contracts or certificates approved by the Commissioner of Insurance, for the payment of either hospital or medical and/or dental fees, or the furnishing of such services, or any or all of them, and may enter into contracts with hospitals for physicians and/or dentists, or any or all of them, for the furnishing of fees or services respectively under a hospital or medical and/or dental service plan, or any or all of them.

The term 'preferred provider' as used in this Article and Article 66 of this Chapter with respect to contracts, organizations, policies or otherwise means a health care service provider who has agreed to accept, from a corporation organized for the purposes authorized by this Article and Article 66 of this Chapter or other applicable law, special reimbursement terms in exchange for providing services to beneficiaries of a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the Department of Insurance not inconsistent with this Article and Article 66 of this Chapter, the contractual terms and conditions for special reimbursement shall be those which the corporation and preferred provider find to be mutually agreeable.

(d) No foreign or alien hospital or medical and/or dental service corporation as herein defined shall be authorized to do business in this State."

Section 3. G.S. 135-40.7B(c1) reads as rewritten:

"(c1) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for chemical dependency under this section:

(1) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager, in facilities described in subdivision (b)(2) of this section, in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of the General Statutes or in North Carolina area programs in substance abuse services are authorized to provide treatment for chemical dependency under this section:

a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
b. Licensed or certified psychologists;
c. Psychiatrists;
d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;

e. Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;
f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;
g. Certified clinical social workers;
h. Certified clinical specialists in psychiatric and mental health nursing;
i. Licensed professional counselors; ~~and~~
j. Certified fee-based practicing pastoral counselors until July 1, ~~1999.~~ 1999; and
k. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes.

(2) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager are authorized to provide treatment for chemical dependency in outpatient practice settings:
a. Licensed physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
b. Licensed or certified psychologists;
c. Psychiatrists;
d. Certified substance abuse counselors working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
e. Psychological associates with a masters degree in psychology working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
f. Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
g. Certified clinical social workers;
h. Certified clinical specialists in psychiatric and mental health nursing;
i. Licensed professional counselors;
j. Licensed fee-based practicing pastoral counselors until July 1, 1999; ~~and~~
k. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes; and
~~k.~~ l. In the absence of meeting one of the criteria above, the Mental Health Case Manager could consider, on a case-by-case basis, a provider who supplies:
1. Evidence of graduate education in the diagnosis and treatment of chemical dependency, and
2. Supervised work experience in the diagnosis and treatment of chemical dependency (with supervision by an appropriately credentialed provider), and
3. Substantive past and current continuing education in the diagnosis and treatment of chemical dependency commensurate with one's profession.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost-effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency."

Section 3.1. G.S. 90-113.47 is repealed.

Section 4. This act becomes effective October 1, 1999, and applies to claims for payment or reimbursement for services rendered on or after that date.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 1:14 p.m. on the 21st day of June, 1999.

H.B. 899 **SESSION LAW 1999-200**

AN ACT AMENDING CERTAIN REQUIREMENTS FOR LICENSURE OF REAL ESTATE BROKERS AND SALESMEN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93A-4 reads as rewritten:

"*§ 93A-4. Applications for licenses; fees; qualifications; examinations; ~~bond;~~ privilege licenses; renewal or reinstatement of license; power to enforce provisions.*

(a) Any person, partnership, ~~association, or corporation~~ corporation, limited liability company, association, or other business entity hereafter desiring to enter into business of and obtain a license as a real estate broker or real estate salesman shall make written application for such license to the Commission ~~on such forms as are~~ in the form and manner prescribed by the Commission. Each applicant for a license as a real estate broker or real estate salesman shall be at least 18 years of age. Each applicant for a license as a real estate salesman shall, within ~~five~~ three years preceding the date application is made, have satisfactorily completed, at a school approved by the Commission, a real estate fundamentals course consisting of at least ~~30~~ 67 hours of classroom instruction in subjects determined by the Commission, or shall possess real estate education or experience in real estate transactions which the Commission shall find equivalent to the course. Each applicant for a license as a real estate broker shall, within ~~five~~ three years preceding the date the application is made, ~~either have been actively engaged on a full-time basis as a licensed real estate salesman for at least two years, or~~ have satisfactorily completed, at a school approved by the Commission, ~~advanced courses in Real Estate Law, Real Estate Finance, and Real Estate Brokerage Operations, each~~ an education program consisting of at least ~~30~~ 60 hours of classroom ~~instruction, these courses to~~ instruction in subjects determined by the Commission, which shall be in addition to ~~those~~ the course required for a real estate salesman license, or shall possess real estate education or experience in real estate transactions which the Commission shall find equivalent to the ~~above requirements.~~ education program. Each ~~application~~ applicant for a license as a real estate broker or real estate salesman shall be ~~accompanied by~~ required to pay a fee, fixed by the Commission but not to exceed thirty dollars ($30.00). ~~Each application~~

~~for license as a real estate salesman shall be accompanied by a fee, fixed by the Commission but not to exceed thirty dollars ($30.00).~~

(b) ~~Any~~ Except as otherwise provided in this Chapter, any person who ~~files such~~ submits an application to the Commission in proper manner for a license as real estate broker or a license as real estate salesman shall be required to take an oral or written ~~examination to~~ examination. The Commission may allow an applicant to elect to take the examination by computer as an alternative to the written or oral examination and may require the applicant to pay the Commission or a provider contracted by the Commission the actual cost of administering the computerized examination. The cost of the computerized examination shall be in addition to any other fees the applicant is required to pay under subsection (a) of this section. The examination shall determine ~~his~~ the applicant's qualifications with due regard to the paramount interests of the public as to the ~~honesty, truthfulness, integrity and competency of the applicant.~~ applicant's competency. A person holding a real estate salesman license in this State and applying for a real estate broker license shall not be required to take an additional examination under this subsection.

~~The Commission may make such investigation as it deems necessary into the ethical background of the applicant.~~ An applicant for licensure under this Chapter shall satisfy the Commission that he or she possesses the competency, honesty, truthfulness, integrity, and general moral character necessary to protect the public interest and promote public confidence in the real estate brokerage business. If the results of ~~the~~ any required competency examination and investigation of the applicant's moral character shall be satisfactory to the Commission, then the Commission shall issue to ~~such a person~~ the applicant a license, authorizing ~~such person~~ the applicant to act as a real estate broker or real estate salesman in the State of North Carolina, upon the payment of privilege taxes now required by law or that may hereafter be required by law.

~~Provided, however, that any person who, at the time of the passage or at the effective date of this Chapter, has a license to engage in, and is engaged in business as a real estate broker or real estate salesman and who shall file a sworn application with the Commission setting forth his qualifications, including a statement that such applicant has not within five years preceding the filing of the application been convicted of any felony or any misdemeanor involving moral turpitude, shall not be required to take or pass such examination, but all such persons shall be entitled to receive such license from the Commission under the provisions of this Chapter on proper application therefor and payment of a fee of ten dollars ($10.00).~~

(c) All licenses issued by the Commission under the provisions of this Chapter shall expire on the 30th day of June following issuance or on any other date that the Commission may determine and shall become invalid after that date unless reinstated. A license may be renewed 45 days prior to the expiration date by filing an application with and paying to the Executive Director of the Commission the license renewal fee. The license renewal fee is thirty dollars ($30.00) unless the Commission sets the fee at a higher amount. The Commission may set the license renewal fee at an amount that does not exceed fifty dollars ($50.00). The license renewal fee may not

increase by more than five dollars ($5.00) during a 12-month period. The Commission may adopt rules establishing a system of license renewal in which the licenses expire annually with varying expiration dates. These rules shall provide for prorating the annual fee to cover the initial renewal period so that no licensee shall be charged an amount greater than the annual fee for any 12-month period. All licenses reinstated after the expiration date thereof shall be subject to a late filing fee of five dollars ($5.00) in addition to the required renewal fee. In the event a licensee fails to obtain a reinstatement of such license within 12 months after the expiration date thereof, the Commission may, in its discretion, consider such person as not having been previously licensed, and thereby subject to the provisions of this Chapter relating to the issuance of an original license, including the examination requirements set forth herein. Duplicate licenses may be issued by the Commission upon payment of a fee of five dollars ($5.00) by the licensee. Commission certification of a licensee's license history shall be made only after the payment of a fee of ten dollars ($10.00).

(d) The Commission is expressly vested with the power and authority to make and enforce any and all ~~such~~ reasonable rules and regulations connected with ~~the application for any license~~ license application, examination, renewal, and reinstatement as shall be deemed necessary to administer and enforce the provisions of this Chapter. The Commission is further authorized to adopt reasonable rules and regulations necessary for the approval of real estate ~~schools and such rules and regulations may, in accordance with G.S. 93A-4(a),~~ schools, instructors, and textbooks and rules that prescribe specific requirements pertaining to ~~the teaching of mechanics and law governing real estate transactions at such schools.~~ instruction, administration, and content of required education courses and programs.

(e) Nothing contained in this Chapter shall be construed as giving any authority to the Commission nor any licensee of the Commission as authorizing any licensee ~~whether by examination or under the grandfather clause or by comity~~ to engage in the practice of law or to render any legal service as specifically set out in G.S. 84-2.1 or any other legal service not specifically referred to in said section."

Section 2. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 1:16 p.m. on the 21st day of June, 1999.

H.B. 972 **SESSION LAW 1999-201**

AN ACT TO PROVIDE THAT THE COST AND EXPENSES OF TRANSPORTING A RESPONDENT IN AN INVOLUNTARY COMMITMENT PROCEEDING MAY BE RECOVERED FROM THE RESPONDENT'S COUNTY OF RESIDENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-251(h) reads as rewritten:

"(h) The cost and expenses of transporting a respondent to or from a 24-hour facility is the responsibility of the county of residence of the respondent. The State (when providing transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable cost of transportation from ~~either (i) the respondent or some other individual liable for his support and maintenance, if there is property sufficient to pay the cost; or (ii) the county of residence of an indigent respondent.~~ the county of residence of the respondent. The county of residence of the respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by this subsection. The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. Provided that the respondent or other individual liable for the respondent's support is provided a reasonable notice and opportunity to object to the reimbursement. The county of residence of the respondent may recover that cost from:

(1) The respondent, if the respondent is not indigent;
(2) Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;
(3) Any person or entity that is contractually responsible for the cost; or
(4) Any person or entity that otherwise is liable under federal, State, or local law for the cost."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 1:18 p.m. on the 21st day of June, 1999.

S.B. 1122 **SESSION LAW 1999-202**

AN ACT TO AMEND THE LAW TO ALLOW COUNTIES TO REDUCE CERTAIN COUNTY APPROPRIATIONS AND EXPENDITURES FOR AREA MENTAL HEALTH AUTHORITIES FOR FUTURE FISCAL YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-115(d) reads as rewritten:

"(d) Except as otherwise provided in this subsection, ~~Counties~~ counties shall not reduce county appropriations and expenditures for current operations and ongoing programs and services of area authorities because of the availability of State-allocated funds, fees, capitation amounts, or fund balance to the area authority. Counties may reduce county appropriations by the amount previously appropriated by the county for one-time, nonrecurring special needs of the area authority."

Section 2. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 1:20 p.m. on the 21st day of June, 1999.

H.B. 414 **SESSION LAW 1999-203**

AN ACT ALLOWING THE NORTH CAROLINA VETERINARY MEDICAL BOARD TO LICENSE VETERINARIANS WHO ARE LICENSED IN OTHER STATES BUT HAVE NOT COMPLETED THE CERTIFICATION PROGRAM FOR FOREIGN VETERINARY GRADUATES.

The General Assembly of North Carolina enacts:

Section 1G.S. 90-187.3(a) reads as rewritten:

"(a) The Board may issue a license without written examination, other than the written North Carolina license examination, to applicants already licensed in another state provided the applicant presents evidence satisfactory to the Board that:

(1) The applicant is currently an active, competent practitioner in good ~~standing; and~~ standing.

(2) The applicant has practiced at least three of the five years immediately preceding filing the ~~application; and~~ application.

(3) The applicant currently holds an active license in another ~~state; and~~ state.

(4) There is no disciplinary proceeding or unresolved complaint pending against the applicant at the time a license is to be issued by this ~~State; and~~ State.

(4a) Any disciplinary actions taken against the applicant or his or her license by the other state in which he or she is licensed will not affect the applicant's competency to practice veterinary medicine as provided in this Article or any rules adopted by the Board.

(5) The licensure requirements in the other state are substantially equivalent to those required by this ~~State; and~~ State.

(6) The applicant has achieved a passing score on the written North Carolina license examination."

Section 2. G.S. 90-187.3 is amended by adding a new subsection to read:

"(a1) If an applicant fails to satisfy subdivision (a)(5) of this section because the applicant was not required by the state in which he or she is licensed to complete the certification program developed and currently administered by the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association or its predecessor program, the Board may consider the following in determining whether the applicant should be licensed in this State:

(1) The length of time the applicant has been licensed in the other state, but the applicant shall have been licensed and engaged in the practice of veterinary medicine for at least 10 years.

(2) The applicant's veterinary practice history, including the type and nature of practice.

(3) The completion of continuing education courses satisfactory to the Board.

(4) Affidavits from veterinarians licensed and in good standing in the other state who can attest to the applicant's competency to practice veterinary medicine.

(5) Any other evidence that demonstrates the applicant's clinical proficiency and his or her ability to comprehend and communicate in English."

Section 3. This act is effective when it becomes law. Section 2 of this act shall expire on July 1, 2001.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 1:22 p.m. on the 21st day of June, 1999.

S.B. 789 **SESSION LAW 1999-204**

AN ACT TO MAKE CERTAIN CHANGES TO THE NOTICE TO BE GIVEN UPON THE MERGER OF OR UPON THE SALE, LEASE, OR EXCHANGE OF THE ASSETS OF A CHARITABLE OR RELIGIOUS NONPROFIT CORPORATION UNDER THE NONPROFIT CORPORATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-11-02(b) reads as rewritten:

"(b) At least ~~20~~ 30 days before consummation of any merger of a charitable or religious corporation pursuant to subdivision (a)(4) of this section, notice, including a copy of the proposed plan of merger, shall be delivered to the Attorney General. This notice shall include all the information the Attorney General determines is required for a complete review of the proposed transaction. The Attorney General may require an additional 30-day period to review the proposed transaction by providing written notice to the charitable or religious corporation prior to the expiration of the initial notice period. During this 30-day period, the transaction may not be finalized."

Section 2. G.S. 55A-12-02(g) reads as rewritten:

"(g) A charitable or religious corporation shall give written notice to the Attorney General ~~20~~ 30 days before it sells, leases, exchanges, or otherwise disposes of all, or ~~substantially all, of~~ a majority of, its property if the transaction is not in the usual and regular course of its activities unless the Attorney General has given the corporation a written waiver of this subsection. This notice shall include all the information the Attorney General determines is required for a complete review of the proposed transaction. The Attorney General may require an additional 30-day period to review the proposed transaction by providing written notice to the charitable or religious corporation prior to the expiration of the initial notice period. During this 30-day period, the transaction may not be finalized."

Section 3. This act becomes effective October 1, 1999, and applies to notices given on or after that date.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 1:25 p.m. on the 21st day of June, 1999.

H.B. 830 **SESSION LAW 1999-205**

AN ACT TO MODIFY THE PENALTIES FOR THE TRANSYLVANIA COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 969 of the 1985 Session Laws, as it applies to Transylvania County, reads as rewritten:

"Section 1. Transylvania Occupancy Tax. (a) Authorization and Scope. The board of commissioners of ~~a county~~ Transylvania County may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. ~~Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Use of Tax Revenue. ~~Except as provided in Section 2 of this act for Durham County, a taxing county~~ Transylvania County shall place revenue collected from a tax levied under this act in a special Travel and Tourism Fund. Revenue in this Fund may be used only to promote travel and tourism and for tourism-related expenditures in ~~the county.~~ Transylvania County.

The following definitions apply in this subsection:

(1) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(2) Tourism-related expenditures. -- Expenditures that, in the judgment of the governing authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the board of commissioners of the county. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, ~~and Scotland~~ Scotland, and Transylvania Counties."

Section 3. This act becomes effective July 1, 1999, and applies to taxes due on or after that date.

In the General Assembly read three times and ratified this the 22nd day of June, 1999.

Became law on the date it was ratified.

H.B. 447 **SESSION LAW 1999-206**

AN ACT TO AUTHORIZE THE CITY OF ASHEVILLE TO PROHIBIT ACTS OF DISCRIMINATION IN EMPLOYMENT BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, OR AGE.

The General Assembly of North Carolina enacts:

Section 1. Definition. -- As used in this act, "person" means one or more individuals, governments, governmental agencies, political subdivisions, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees-in-bankruptcy, or receivers. Person does not include a bona fide private membership club other than a labor organization that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954.

Section 2. Authority to adopt ordinances. -- (a) The City of Asheville ("City") may adopt ordinances to prohibit discrimination in employment based on race, color, national origin, religion, sex, disability, or having attained the age of 40 or more years. To assist in the enforcement of these ordinances, the City may, in these ordinances, adopt procedures and delegate powers to the Asheville-Buncombe Community Relations Council ("Council") that are necessary and proper for carrying out and enforcing these ordinances. The Council may:

(1) Receive, initiate, and review complaints that allege a violation of the ordinance has occurred.

(2) Conduct investigations into the basis of complaints.

(3) Apply to the superior court for mandatory or prohibitory injunctive relief, or both, pursuant to Rule 65 of the North Carolina Rules of Civil Procedure if it determines, after a preliminary investigation, that prompt judicial action is necessary to carry out the purposes of the ordinance.

(4) Make a determination of whether or not there is reasonable cause to believe that an unlawful discriminatory practice has occurred.

(5) Dismiss complaints in these cases when the Council determines that reasonable cause does not exist.

(6) Issue a right-to-sue letter to any complainant in those instances where the Council has failed to make a determination of reasonable cause in a timely manner, determines that reasonable cause does not exist, or where conciliation efforts have failed.

(7) Attempt to conciliate a resolution of the complaint between the parties.

(8) Enter into conciliation agreements in instances where conciliation efforts have been successful.

Section 2.(b) When conducting investigations pursuant to subdivision (2) of subsection (a) of this section, the Council may:

(1) Subpoena witnesses, administer oaths, and compel the production of evidence.

(2) Take depositions and serve interrogatories in accordance with Chapter 1A of the General Statutes, the Rules of Civil Procedure.

Section 2.(c) In the event any person refuses to comply with a subpoena or discovery request under subsection (b) of this section, the Council may apply to the Buncombe County Superior Court for an order to compel compliance with the subpoena or discovery request. No testimony of any witness before the Council pursuant to a subpoena issued under this section may be used against the witness in the trial of any criminal action other than a prosecution for false swearing committed on the examination.

Section 2.(d) The General Assembly does not intend to expand the authority or powers of the Council beyond those prescribed by federal laws or regulations with respect to a specific employer. The Council may, as part of an enforcing order, require any person to cease and desist from unlawful practices and to engage in all of the following additional remedial actions as may be appropriate, including, but not limited to, requiring the person to:

(1) Hire, reinstate, or upgrade aggrieved individuals, with or without back pay.

(2) Admit aggrieved individuals to or to allow aggrieved individuals to participate in guidance programs, apprenticeship training programs, on-the-job training programs, or other occupational training programs; and to use objective criteria in the admission of any individual to these programs.

(3) Submit to the Council, for approval or disapproval, plans to eliminate or reduce imbalance with respect to race, color, national origin, religion, sex, disability, or age.

(4) Provide technical assistance to aggrieved individuals.

(5) Report as to the manner of compliance with this act.

(6) Post notices in conspicuous places in the form prescribed by the Council.

Section 3. Judicial review of Council order. -- (a) Except as provided in subsection (b) of this section, judicial review of Council orders shall be in accordance with Article 4 of Chapter 150B of the General Statutes.

Section 3.(b) Notwithstanding the provisions of G.S. 150B-45, petitions for judicial review shall be filed in the Buncombe County Superior Court.

Section 3.(c) For purposes of this section, the term "agency", whenever used in Article 4 of Chapter 150B of the General Statutes, shall have the same meaning as "Council" under this act.

Section 4. Enforcement of Council orders. -- (a) If within 60 days after entry of an order of the Council, a respondent has neither complied

with nor sought review of that order, any aggrieved person or the Council may apply to the Buncombe County Superior Court for an order of the court to enforce the order of the Council. The application to superior court must be filed not later than 120 days after entry of the order of the Council.

Section 4.(b) Within 30 days after the court's receipt of the petition for enforcement of the Council's order or within such additional time as the court may allow, the Council shall transmit to the court the original or a certified copy of the entire record of the proceedings leading to the order. With the permission of the court, the record may be shortened by stipulation of all parties. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for any additional costs as may be occasioned by the refusal. The court, in its discretion, may require or permit subsequent corrections or additions to the record.

Section 4.(c) Subject to subsection (d) of this section, the hearing on the petition for enforcement of the Council's order shall be conducted by the court without a jury. The court shall hear oral arguments and receive written briefs, but shall not take evidence that was not offered at the Council hearing.

Section 4.(d) In cases of alleged irregularities in procedure before the Council not shown in the record, testimony may be taken by the court regarding the alleged irregularities. The judge in his or her discretion may hear all or part of the matter de novo where no record was made of the proceeding or where the record is inadequate.

Section 4.(e) The court shall issue the order requiring compliance with the Council's order unless the court finds that enforcement of the Council's order would prejudice substantial rights of the party against whom the order is sought to be enforced. The Council's order would prejudice substantial rights of the party against whom the order is sought if the Council's findings, inferences, conclusions, or decisions do any of the following:

(1) Are in violation of constitutional provisions.
(2) Are in excess of the statutory authority or jurisdiction of the Council.
(3) Are made upon unlawful procedure.
(4) Are affected by other error of law.
(5) Are unsupported by substantial evidence in view of the entire record as submitted.
(6) Are arbitrary or capricious.

Section 4.(f) If the court declines to require compliance with the Council's order, the court shall do one of the following:

(1) Dismiss the petition.
(2) Modify the Council's order and enforce it as modified.
(3) Remand the case to the Council for further proceedings.

Section 4.(g) Any party to the hearing on the petition for enforcement of the Council's order may appeal the court's decision to the appellate division pursuant to the North Carolina Rules of Appellate Procedure.

Section 5. Civil action for unlawful employment practice. -- (a) An ordinance adopted pursuant to this act may permit any complainant

dissatisfied with the Council's final disposition of a matter to bring a civil action in the Buncombe County Superior Court against the person allegedly engaging in the unlawful practice. A civil action for an unlawful employment practice shall not be brought more than one year after a charge of discrimination was filed with the Council or more than 60 days after the complainant's receipt of notification of the Council's final disposition of the matter, whichever is later.

Section 5.(b) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in an unlawful employment practice and order any action as may be appropriate, which may include, but is not limited to: reinstatement or hiring of employees, with or without back pay by the person, firm, corporation, or association responsible for the unlawful practice; or any other equitable relief as the court deems appropriate. Back pay shall not accrue from a date more than two years prior to the filing of a charge with the Council. Interim earnings or amounts earnable with reasonable diligence by the person discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require any remedies under this act, if the individual was refused employment or advancement or was suspended or discharged for any reason other than discrimination based on race, color, religion, sex, national origin, disability, or age in violation of an ordinance adopted pursuant to this act.

Section 5.(c) In any action or proceeding under an ordinance adopted pursuant to this act, the court, in its discretion, may award the prevailing party reasonable attorneys' fees as part of the costs.

Section 6. Discrimination based on opposition to unlawful practices or participation in an investigation, proceeding, or hearing. -- It shall be an unlawful employment practice for any employer to discriminate against any employees or applicants for employment or to discriminate against any individual, or for a union labor organization to discriminate against any member of its union or applicant for membership, because the individual opposed an unlawful employment practice adopted by ordinance pursuant to this act or because the individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under such an ordinance.

Section 7. Cases deferred by Equal Employment Opportunity Commission. -- The City may authorize the Council to serve as a deferral agency for cases deferred by the Equal Employment Opportunity Commission as provided in section 706 of the Civil Rights Act of 1964, 42 U.S.C. § 20000e-5, the Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq., and the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.

Section 8. Access to records. -- The Council, at all reasonable times, shall have access to and the right to copy any evidence of any person being investigated that relates to an unlawful employment practice under an ordinance adopted pursuant to the act and relevant to the charge under investigation. Information discovered during such an investigation shall not

be made public by the Council until offered into evidence in an administrative hearing or judicial proceeding.

Section 9. Public records. -- The provisions of G.S. 132-6 and G.S. 132-9 shall not apply to records concerning the investigation, conciliation, or mediation of alleged violations of an ordinance enacted pursuant to this act.

Section 10. This act applies only to the City of Asheville.

Section 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law on the date it was ratified.

H.B. 840 **SESSION LAW 1999-207**

AN ACT TO EXEMPT ONSLOW COUNTY FROM CERTAIN STATUTORY REQUIREMENTS IN THE RENOVATION OF THE ONSLOW SUPERIOR COURTHOUSE AND TO PROVIDE FOR FLEXIBILITY IN SCHOOL CONSTRUCTION AND REPAIR CONTRACTS FOR CHARLOTTE/MECKLENBURG SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1.(a) Authority to Seek Bids Under Either Separate-Prime or Separate- and Single-Prime Systems. -- Notwithstanding G.S. 143-128 or any other provisions of law, Onslow County may seek bids for the renovation of the Onslow County Superior Courthouse (i) under the separate-prime contract system or (ii) under both the separate-prime and the single-prime systems.

Section 1.(b) Standard for Award of Bids. -- If the county seeks bids under only the separate-prime contract system, the county shall award the contract to the lowest responsible bidder, taking into consideration quality, performance, and time specified in the bids for performance of the contract.

If the county seeks bids under both the separate-prime and the single-prime systems, the county shall award the contract to either the lowest responsible bidder under the single-prime system or to the lowest responsible bidder under the separate-prime system, taking into consideration quality, performance, and time specified in the bids for performance of the contract. In determining the system under which the contract will be awarded to the lowest responsible bidder, the county may consider cost of construction oversight, time for completion, ability to control and coordinate the project, safety concerns regarding the removal of asbestos and lead paint, and other factors it deems appropriate.

Section 1.(c) Minimum Number of Bids Required. -- The county shall not open any bid solicited under this act unless it receives at least three competitive bids from reputable and qualified contractors regularly engaged in their respective lines of endeavor. In calculating the number of bids required, either a full set of separate-prime bids or a single single-prime bid shall constitute a bid.

If the county seeks bids under both the separate-prime and the single-prime systems, the county is not required to receive either at least one full set of separate-prime bids or at least one bid from a general contractor under the separate-prime system. The bids received as separate-prime bids shall be submitted three hours prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor to the county under the separate-prime system. Each single-prime bid shall identify the contractors selected to perform the three major subdivisions or branches of work and shall list the contractors' respective bid prices for those branches of work.

If after advertisement, the county has not received the minimum number of competitive bids as required by this subsection, the county shall again advertise for bids. If the required minimum number of bids is not received as a result of the second advertisement, the county may let the contract to the lowest responsible bidder that submitted a bid for the project, even though the county received only one bid.

Section 1.(d) Applicability of General Statutes. -- All provisions of Article 8 of Chapter 143 of the General Statutes that are not inconsistent with this subsection shall apply to the county.

Section 2. Prequalified bidders; solicited bid list. -- Notwithstanding G.S. 143-129, the Charlotte/Mecklenburg Board of Education ("Board") may prequalify a limited number of contractors for a school facility construction, rebuilding, or renovation contract ("contract" and "project") and solicit bids from some or all of those prequalified contractors. The Board must attempt to prequalify and solicit sealed bids from at least five contractors and may not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors. The Board may prequalify only single prime contractors pursuant to this section.

The Board shall award the contract or contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance, and the time specified in the bids for the performance of the project. Notwithstanding the first paragraph of this section, if the Board does not receive three or more proposals, it may again seek proposals for the project pursuant to this section and may award the contract to the lowest responsible bidder, even if only one proposal is received.

In prequalifying a contractor for purposes of this section, the Board may consider the contractor's relevant experience on the type of project to be bid, ability to meet the project schedule, financial strength, and the contractor's failure to perform satisfactorily on past projects or a current project. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. The Board must notify a disqualified bidder at least seven days prior to the opening of bids.

This section applies only to renovation, repair, and rebuilding projects.

Section 3. Construction management. -- Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may contract with a construction manager to manage and assume liability for the completion of a project.

The construction manager shall be selected in the same manner that architects and engineers are selected pursuant to Article 3D of Chapter 143 of the General Statutes. If the Board receives bids under the separate-prime system and contracts with a construction manager who will be liable for the completion of the project, the Board may combine the lowest responsible bids in each subdivision of work into a single contract to be administered by the construction manager.

Section 4. Design-build. -- Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may use the design-build method of construction as follows:

(1) The Board must seek to prequalify and solicit at least five design-build teams to bid on the project and must receive sealed proposals from at least three of those teams. The request for proposals must contain a design criteria package that defines the project scope, including preliminary design and performance specifications, in a manner sufficient to allow the bidders to respond. This package should be developed by an architect.

(2) The Board shall interview at least three of the design-build teams that submit proposals. The Board shall award the contract to the best qualified team, taking into account the time of completion of the project and the cost of the project as the major factors.

Section 5. Other methods. -- Nothing in this act limits the Board's use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes.

Section 6. Project bundling. -- The Board may award a single contract pursuant to this act covering multiple facilities and sites, except that all facilities for which such contract is awarded under this act for new construction must be in the same grade level (elementary school, middle school, or high school) unless the facilities are part of a single campus.

Section 7. Sections 2 through 6 apply to the Charlotte/Mecklenburg Board of Education only.

Section 8. This act is effective when it becomes law and expires July 1, 2002.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law on the date it was ratified.

H.B. 852 **SESSION LAW 1999-208**

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF HICKORY AND THE TOWN OF BROOKFORD, AND ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE TOWN OF MOCKSVILLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Hickory or the Town of Brookford as to any property if the City or Town has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to which a point on the

proposed satellite corporate limits is closer and that agreement states that the other city will not annex the property, except that this modification shall not apply to the boundary agreement between the City of Hickory and the City of Newton dated May 7, 1996. This section shall have no effect on the ability of the City of Hickory to annex property under Part 4 of Chapter 160A of the General Statutes if the property is closer to the Town of Maiden than it is to the City of Hickory.

Section 2. The following described property is added to the corporate limits of the Town of Mocksville:

Beginning at a concrete monument set, said monument being located N 59° 50' 17" W 2511.7' from the intersection of North Main St. and Campbell Road in the Town of Mocksville, North Carolina, also being further located N 02° 27' 33" E 71.62' from the Southeast corner of a Mocksville Annexation Map as recorded in Plat Book 6, page 131, Davie County Registry, thence;

N 02°27'33" E	549.70', TO A CONCRETE MON. FOUND
N 02°27'33" E	996.50', TO A POINT CL CAMPBELL RD.
N 02°27'33" E	586.50', TO A .75" IRON NORTH SIDE CREEK
S 61°04'29" E	120.56', TO A POINT IN CREEK
N 71°42'10" E	327.39', TO A POINT IN CREEK
N 63°23'29" E	291.04', TO A POINT IN CREEK
N 77°18'07" E	401.50', TO A POINT IN CREEK
N 61°34'10" E	240.46', TO A POINT IN CREEK
N 39°26'56" E	244.24', TO A POINT IN CREEK
N 58°10'43" E	442.61', TO A POINT IN CREEK
N 62°22'28" E	193.44', TO A POINT IN CREEK
N 58°47'38" E	280.10', TO AN AXLE NORTH SIDE CREEK
S 01°32'31" W	1644.56', TO AN IRON PLACED
S 40°24'40" W	455.40', TO AN IRON PLACED
S 31°14'59" W	132.00', TO A 0.75" SOLID IRON FOUND
N 68°45'01" W	167.34', TO A LEAF SPRING FOUND
S 42°14'59" W	87.12', TO AN UNMARKED POINT
S 30°05'50" W	138.05', TO AN UNMARKED POINT
S 82°30'57" E	211.20', TO A 0.5" IRON FOUND
S 04°59'04" E	82.78', TO A 0.5" IRON FOUND
S 28°26'07" E	95.35', TO A 0.5" IRON FOUND
S 28°12'02" E	100.28', TO A 0.5" IRON FOUND
S 28°32'14" E	77.59', TO A 0.5" IRON FOUND
S 53°29'41" E	160.61', TO AN UNMARKED POINT
S 58°03'55" E	613.64', TO AN IRON PLACED
S 21°59'37" W	32.15', TO A CONCRETE MON. FOUND
S 58°16'00" E	33.33', TO A 0.75" IRON FOUND
S 27°17'18" W	120.04', TO A 1.5" IRON FOUND
S 27°22'16" W	125.14', TO A CONCRETE MON. FOUND
S 25°31'34" W	24.55', TO A 0.5" IRON FOUND
N 62°48'48" W	260.19', TO AN IRON PLACED
S 27°03'32" W	100.14', TO A 0.5" REBAR FOUND
S 27°03'46" W	99.65', TO A 0.5" IRON FOUND

S 27°03'19" W 99.83', TO A 0.5" IRON FOUND
S 26°59'36" W 296.54', TO A 0.75" IRON FOUND
S 26°59'46" W 206.54', TO A 0.5" IRON FOUND
S 01°24'53" W 55.08', TO A CONCRETE MON. SET
N 59°52'17" W 566.80', TO A CONCRETE MON. SET
(ARC= 567.07, RADIUS= 5280.00)
N 28°59'18" E 29.26', TO AN UNMARKED POINT
N 45°50'52" W 107.94', TO AN UNMARKED POINT
N 47°20'22" W 107.50', TO A 0.5" IRON FOUND
S 39°58'19" W 71.28', TO A POINT IN HILLCREST ST.
S 48°24'43" E 88.38', TO A POINT IN HILLCREST ST.
N 71°52'36" W 1369.48', TO A CONCRETE MON. SET
(ARC= 1373.35, RADIUS= 5280.00).

Section 3. This act shall have no effect on any cases pending in the courts in this State.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law on the date it was ratified.

S.B. 249 **SESSION LAW 1999-209**

AN ACT TO EXTEND THE MORATORIUM ON THE ISSUANCE OF SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE FISHERIES LICENSE AGENTS TO POST BONDS, TO ESTABLISH AN INTERIM CRAB LICENSE, TO ESTABLISH A 1999 GRACE PERIOD FOR THE ISSUANCE OF MARINE FISHING LICENSES, TO PROVIDE THAT THE DIVISION OF MARINE FISHERIES MAY ISSUE LICENSES PRIOR TO THE END OF EACH LICENSE YEAR AND MAY RETAIN REVENUES FROM THOSE LICENSES DURING THE FOLLOWING LICENSE YEAR, TO CLARIFY THE CRUELTY TO ANIMALS STATUTE, AND TO EXEMPT PERSONS WHO TAKE FISH BY MEANS OF A GIG FOR RECREATIONAL PURPOSES FROM THE RECREATIONAL COMMERCIAL GEAR LICENSE REQUIREMENT.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400;

Section 15 of S.L. 1998-23; and Section 1 of S.L. 1998-56, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~July 1, 1999.~~ October 1, 2001."

Section 2. The Division of Marine Fisheries and the Primary Investigator for the Human Use Mapping Project in Core Sound shall report the results of the shellfish mapping and human use mapping of Core Sound to the Joint Legislative Commission on Seafood and Aquaculture and the Marine Fisheries Commission no later than October 1, 1999.

Section 3. G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary ~~shall~~ may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1."

Section 4.(a) Definitions. -- The definitions set out in G.S. 113-168 shall apply to this section.

Section 4.(b) SCFL Not Valid to Take Crabs. -- Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.

Section 4.(c) Interim Crab License Required to Take Crabs as Part of a Commercial Fishing Operation; Sale of Crabs. -- Except as otherwise provided by this section, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina without having first procured an interim crab license. A person who works as a member of the crew of a vessel that is taking crabs as part of a commercial fishing operation under the direction of a person who holds an interim crab license is not required to hold an interim crab license. An interim crab license entitles the holder to transfer crabs taken under the interim crab license to a person who holds a Standard Commercial Fishing License issued under G.S. 113-168.2 or a Retired Standard Commercial Fishing License issued under G.S. 113-168.3.

Section 4.(d) Eligibility for Interim Crab License. -- Any person who held a valid crab license issued pursuant to G.S. 113-153.1 at any time during the period July 1, 1994, through June 30, 1999, is eligible to receive an interim crab license. The Division shall issue an interim crab license to any person who is eligible under this section upon receipt of an application and required fees.

Section 4.(e) Duration; Fees. -- The interim crab license expires on October 1, 2000. The fee for the interim crab license shall be seven dollars and fifty cents ($7.50) for a resident of this State and one hundred dollars ($100.00) for a person who is not a resident of this State.

Section 4.(f) General Provisions. -- Subsections (c), (d), (e), (g), (h), and (i) of G.S. 113-168.1 shall apply to the interim crab license.

Section 4.(g) License Issuance. -- The Division shall issue an interim crab license to eligible applicants at any office of the Division.

Section 4.(h) Assignment and Transfer. -- Except as provided in this subsection and subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license. An interim crab license may be transferred only by the Division. The Division shall transfer an interim crab license only to a person who is eligible to obtain or renew a license or endorsement under G.S. 113-168.1(g). The Division may transfer an interim crab license upon the request of:

(1) A licensee, from the licensee to a member of the licensee's immediate family.

(2) The administrator or executor of the estate of a deceased licensee, to the administrator or executor of the estate. The administrator or executor must request a transfer under this subdivision within six months after the administrator or executor qualifies under Chapter 28A of the General Statutes. An administrator or executor who holds an interim crab license under this subdivision may, for the benefit of the estate of the deceased licensee, take crabs as part of a commercial fishing operation.

(3) An administrator or executor to whom an interim crab license was transferred pursuant to subdivision (2) of this subsection, to a surviving member of the deceased licensee's immediate family.

(4) The surviving member of the deceased licensee's immediate family to whom an interim crab license was transferred pursuant to subdivision (3) of this subsection, to a third-party purchaser of the deceased licensee's fishing vessel.

Section 4.(i) Record-Keeping Requirements. -- The record-keeping requirements of G.S. 113-168.2(i) shall apply to the interim crab license.

Section 4.(j) Exemptions. -- A person who is under 16 years of age is exempt from the license requirements of this section if the person is accompanied by a parent, grandparent, or guardian who holds an interim crab license or if the person has in the person's possession a valid interim crab license issued to the person's parent, grandparent, or guardian.

Section 4.(k) Rules on Incidental Taking of Crabs. -- Notwithstanding subsections (b) and (c) of this section, the Marine Fisheries Commission may adopt rules to allow the landing and sale of crabs taken incidentally in the course of other commercial fishing operations.

Section 4.(l) Note to G.S. 113-168.2. -- The Revisor of Statutes shall set out this section as a note to G.S. 113-168.2.

Section 5. Notwithstanding S.L. 1997-400 and S.L. 1998-225, a license or endorsement issued for the 1998-1999 license year by the Division of Marine Fisheries of the Department of Environment and Natural Resources under Article 14 of Chapter 113 of the General Statutes that has not been suspended or revoked shall continue in effect from 1 July 1999 until the earlier of: (i) the date on which the license or endorsement is replaced by a license or endorsement issued pursuant to Article 14A of Chapter 113 of the General Statutes or (ii) 1 August 1999.

Section 6. G.S. 113-168.1 is amended by adding a new subsection to read:

"(j) Advance Sale of Licenses, License Revenue. -- To ensure an orderly transition from one license year to the next, the Division may issue a license or endorsement prior to 1 July of the license year for which the license or endorsement is valid. Revenue that the Division receives for the issuance of a license or endorsement prior to the beginning of a license year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the license year in which the license or endorsement is valid."

Section 7. The Department of Environment and National Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture on the use of funds derived from the sale of licenses and endorsements under Article 14A of Chapter 113 of the General Statutes no later than 1 October 1999.

Section 8. G.S. 14-360(c) reads as rewritten:

"(c) As used in this section, the words 'torture', 'torment', and 'cruelly' include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word 'intentionally' refers to an act committed knowingly and without justifiable excuse, while the word 'maliciously' means an act committed intentionally and with malice or bad motive. As used in this section, the term 'animal' includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and

Mammalia except human beings. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of 'wild birds' pursuant to G.S. ~~113-129(15a);~~ 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of ~~livestock or poultry;~~ livestock, poultry, or aquatic species.

(2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

(3) Activities conducted for lawful veterinary ~~purposes; or~~ purposes.

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health."

Section 9. G.S. 113-173(j) is amended by adding a new subdivision to read:

"(5) A person may take fish for recreational purposes by means of a gig without holding a RCGL."

Section 10. Section 6 of this act is effective 30 June 1999. Sections 7, 8, and 10 of this act are effective when this act becomes law. All other sections of this act become effective 1 July 1999. Section 4 of this act expires 1 October 2000.

In the General Assembly read three times and ratified this the 24th day of June, 1999.

Became law upon approval of the Governor at 3:30 p.m. on the 24th day of June, 1999.

S.B. 685 **SESSION LAW 1999-210**

AN ACT TO CLARIFY THAT TREATMENT OR SERVICES RENDERED BY PHYSICIAN ASSISTANTS SHALL BE REIMBURSABLE UNDER THE STATE HEALTH PLAN AND OTHER HEALTH INSURANCE POLICIES UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. Article 50 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-50-26. Physician services provided by physician assistants.*

No agency, institution, or physician providing a service for which payment or reimbursement is required to be made under a policy governed by Articles 1 through 64 of this Chapter shall be denied the payment or reimbursement on account of the fact that the services were rendered through a physician assistant acting under the authority of rules adopted by the North Carolina Medical Board pursuant to G.S. 90-18.1."

Section 2. G.S. 58-50-30 reads as rewritten:

"*§ 58-50-30. Discrimination forbidden; right to choose services of optometrist, podiatrist, certified clinical social worker, dentist, chiropractor, psychologist,*

pharmacist, certified fee-based practicing pastoral counselor, ~~or advanced practice registered nurse.~~ advanced practice nurse, or physician assistant.

(a) Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by Articles 50 through 55 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of the policy, or in any other manner whatsoever, is prohibited.

Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for payment of or reimbursement for any service rendered in connection with a condition or complaint which is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the services, whether the services be performed by a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, notwithstanding any provision contained in the policy. Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability that is within the scope of practice of a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute.

Whenever any policy of insurance provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) For the purposes of this section, a 'duly licensed psychologist' shall be defined only to include a psychologist who is duly licensed in the State of North Carolina and has a doctorate degree in psychology and at least two

years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Service Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(c) For the purposes of this section, a 'duly certified clinical social worker' is a 'certified clinical social worker' as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

(c1) For purposes of this section, a 'duly certified fee-based practicing pastoral counselor' shall be defined only to include fee-based practicing pastoral counselors certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

(d) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;

(2) The policy currently provides benefits for identical services performed by other licensed health care providers;

(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and

(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.

For purposes of this section, an 'advanced practice registered nurse' means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(e) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

(1) The service performed is within the lawful scope of practice of the pharmacist;

(2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;

(3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and

(4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service.

(f) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:

(1) The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board pursuant to G.S. 90-18.1;

(2) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and

(3) The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant.

Nothing in this subsection is intended to authorize payment to more than one provider for the same service. For the purposes of this section, a 'duly licensed physician assistant' is a physician assistant as defined by G.S. 90-18.1."

Section 3. G.S. 58-50-56(j) reads as rewritten:

"(j) A list of the current participating providers in the geographic area in which a substantial portion of health care services will be available shall be provided to insureds and contracting parties. The list shall include participating physician assistants and their supervising physician."

Section 4. Article 65 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-65-36. Physician services provided by physician assistants.*

No agency, institution, or physician providing a service for which payment or reimbursement is required to be made under a contract governed by this Article or Article 66 of this Chapter shall be denied the payment or reimbursement on account of the fact that the service was rendered through a physician assistant acting under authority of rules adopted by the North Carolina Medical Board pursuant to G.S. 90-18.1."

Section 5. G.S. 58-65-1(a) reads as rewritten:

"(a) Any corporation heretofore or hereafter organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital care and/or medical and/or dental service may be provided in whole or in part by said corporation or by hospitals and/or physicians and/or dentists participating in such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this State, heretofore enacted, unless specifically designated herein, and no laws hereafter enacted shall apply to them unless they be expressly designated therein.

The term 'hospital service plan' as used in this Article and Article 66 of this Chapter includes the contracting for certain fees for, or furnishing of, hospital care, laboratory facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment, accommodations and/or any and all other services authorized or permitted to be furnished by a hospital under the laws of the State of North Carolina and approved by the North Carolina Hospital Association and/or the American Medical Association.

The term 'medical service plan' as used in this Article and Article 66 of this Chapter includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical and/or any other professional

services authorized or permitted to be furnished by a duly licensed physician, except that in any plan in any policy of insurance governed by this Article and Article 66 of this Chapter that includes services which are within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly certified clinical social worker, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, and a duly licensed physician, then the insured or beneficiary shall have the right to choose the provider of the care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly certified clinical social worker, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy. The term 'medical services plan' also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes."

Section 6. G.S. 58-65-1 is amended by adding the following new subsection to read:

"(b2) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:

(1) The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board, pursuant to G.S. 90-18.1;

(2) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and

(3) The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant.

Nothing in this subsection is intended to authorize payment to more than one provider for the same service. For the purposes of this section a 'duly licensed physician assistant' is a physician assistant as defined by G.S. 90-18.1."

Section 7. G.S. 135-40.6 is amended by adding the following new subdivision to read:

"(11) Coverage for Physician Services Provided by Physician Assistants. -- Notwithstanding any other provision of this section or the Plan, benefits shall be payable for physician services performed by a duly licensed physician assistant subject to the following limitations:

a. The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board, pursuant to G.S. 90-18.1, or is within the scope of practice of a physician assistant licensed or certified in and acting pursuant to laws and rules applicable in the area where the service is provided;

b. The plan currently provides reimbursement for identical services performed by other licensed health care providers;

c. The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant; and

d. Nothing in this subdivision authorizes payment to more than one provider for the same service.

As used in this subdivision, a 'duly licensed physician assistant' is a physician assistant as defined by G.S. 90-18.1."

Section 8. G.S. 135-40.7B(c) reads as rewritten:

"(c) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for mental health under this section:

(1) Psychiatrists who have completed a residency in psychiatry approved by the American Council for Graduate Medical Education and who are licensed as medical doctors or doctors of osteopathy in the state in which they perform and services covered by the Plan;

(2) Licensed or certified doctors of psychology;

(3) Certified clinical social workers;

(3a) Licensed professional counselors;

(4) Certified clinical specialists in psychiatric and mental health nursing;

(4a) Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;

(5) Repealed by Session Laws 1997-512, s. 14.

(6) Psychological associates with a masters degree in psychology under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology; ~~and~~

(7), (8) Repealed by Session Laws 1997-512, s. 14.

(9) Certified fee-based practicing pastoral ~~counselors.~~ counselors; and

(10) Licensed physician assistants under the supervision of a licensed psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws and rules of the area in which the physician assistant is licensed or certified."

Section 9. This act becomes effective January 1, 2000, and applies to treatment or services rendered on or after that date.

In the General Assembly read three times and ratified this the 15th day of June, 1999.

Became law upon approval of the Governor at 10:40 a.m. on the 25th day of June, 1999.

S.B. 1096 **SESSION LAW 1999-211**

AN ACT TO MAKE IT A FELONY FOR A SCHOOL EMPLOYEE TO POSSESS A FIREARM ON EDUCATIONAL PROPERTY AND TO MAKE IT A FELONY FOR A STUDENT OR SCHOOL EMPLOYEE TO HAVE A FIREARM AT A CURRICULAR OR EXTRACURRICULAR ACTIVITY SPONSORED BY THE SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-269.2 reads as rewritten:

"§ *14-269.2. Weapons on campus or other educational property.*

(a) The following definitions apply to this section:

(1) Educational property. -- Any ~~public or private~~ school building or bus, ~~public or private~~ school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any board of ~~education, school, college, or university~~ education or school board of trustees, or directors for the administration of any ~~public or private educational institution.~~ school.

(1a) Employee. -- A person employed by a local board of education or school whether the person is an adult or a minor.

(1b) School. -- A public or private school, community college, college, or university.

(2) Student. -- A person enrolled in a ~~public or private school, college or university,~~ school or a person who has been suspended or expelled within the last five years from a ~~public or private~~ school, ~~college or university,~~ whether the person is an adult or a minor.

(3) Switchblade knife. -- A knife containing a blade that opens automatically by the release of a spring or a similar contrivance.

(4) Weapon. -- Any device enumerated in subsection (b) or (d) of this section.

(b) It shall be a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational ~~property.~~ property or to a curricular or extracurricular activity sponsored by a school. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

(c) It shall be a Class I felony for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational property. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

(d) It shall be a Class 1 misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(e) It shall be a Class 1 misdemeanor for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), and any sharp-pointed or edged instrument except

instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(f) Notwithstanding subsection (b) of this section it shall be a Class 1 misdemeanor rather than a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, on educational property ~~if:~~ or to a curricular or extracurricular activity sponsored by a school if:

(1) The person is not a student attending school on the educational ~~property;~~ property or an employee employed by the school working on the educational property; and

(1a) The person is not a student attending a curricular or extracurricular activity sponsored by the school at which the student is enrolled or an employee attending a curricular or extracurricular activity sponsored by the school at which the employee is employed; and

~~(2) The firearm is not concealed within the meaning of G.S. 14-269;~~

(3) The firearm is not ~~loaded and is in a locked container, a locked vehicle, or a locked firearm rack which is on a motor vehicle; and~~ loaded, is in a motor vehicle, and is in a locked container or a locked firearm rack.

~~(4) The person does not brandish, exhibit, or display the firearm in any careless, angry, or threatening manner.~~

(g) This section shall not apply to:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;

(1a) A person exempted by the provisions of G.S. 14-269(b);

(2) Firefighters, emergency service personnel, North Carolina Forest Service personnel, and any private police employed by an educational institution, when acting in the discharge of their official duties; or

(3) Home schools as defined in G.S. 115C-563(a).

(h) No person shall be guilty of a criminal violation of this section so long as both of the following apply:

(1) The person comes into possession of a weapon by taking or receiving the weapon from another person or by finding the weapon.

(2) The person delivers the weapon, directly or indirectly, as soon as practical to law enforcement authorities."

Section 2. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 15th day of June, 1999.

Became law upon approval of the Governor at 11:14 a.m. on the 25th day of June, 1999.

S.B. 288 **SESSION LAW 1999-212**

AN ACT TO EXTEND NORTH CAROLINA'S "LONG ARM JURISDICTION" STATUTE TO INCLUDE SENDERS OF UNSOLICITED ELECTRONIC BULK COMMERCIAL MAIL AND TO MAKE THE SENDING OF UNSOLICITED ELECTRONIC BULK COMMERCIAL MAIL UNLAWFUL IN THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-75.4 reads as rewritten:

"*§ 1-75.4. Personal jurisdiction, grounds for generally.*

A court of this State having jurisdiction of the subject matter has jurisdiction over a person served in an action pursuant to Rule 4(j), Rule 4(j1), or Rule 4(j3) of the Rules of Civil Procedure under any of the following circumstances:

. . .

(4) Local Injury; Foreign Act. -- In any action for wrongful death occurring within this State or in any action claiming injury to person or property within this State arising out of an act or omission outside this State by the defendant, provided in addition that at or about the time of the injury either:

a. Solicitation or services activities were carried on within this State by or on behalf of the defendant; ~~or~~

b. Products, materials or thing processed, serviced or manufactured by the defendant were used or consumed, within this State in the ordinary course of ~~trade.~~ trade; or

c. Unsolicited bulk commercial electronic mail was sent into or within this State by the defendant using a computer, computer network, or the computer services of an electronic mail service provider in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider. Transmission of commercial electronic mail from an organization to its members shall not be deemed to be unsolicited bulk commercial electronic mail."

Section 2. G.S. 14-453 reads as rewritten:

"*§ 14-453. Definitions.*

As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:

(1) "Access" means to instruct, communicate with, cause input, cause output, cause data processing, or otherwise make use of any resources of a computer, computer system, or computer network.

(1a) "Authorization" means having the consent or permission of the owner, or of the person licensed or authorized by the

owner to grant consent or permission to access a computer, computer system, or computer network in a manner not exceeding the consent or permission.

(1b) "Commercial electronic mail" means messages sent and received electronically consisting of commercial advertising material, the principal purpose of which is to promote the for-profit sale or lease of goods or services to the recipient.

(2) "Computer" means an internally programmed, automatic device that performs data processing or telephone switching.

(3) "Computer network" means the interconnection of communication systems with a computer through remote terminals, or a complex consisting of two or more interconnected computers or telephone switching equipment.

(4) "Computer program" means an ordered set of data that are coded instructions or statements that when executed by a computer cause the computer to process data.

(4a) "Computer services" means computer time or services, including data processing services, Internet services, electronic mail services, electronic message services, or information or data stored in connection with any of these services.

(5) "Computer software" means a set of computer programs, procedures and associated documentation concerned with the operation of a computer, computer system, or computer network.

(6) "Computer system" means at least one computer together with a set of related, connected, or unconnected peripheral devices.

(6a) "Data" means a representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer, computer system, or computer network. Data may be embodied in any form including, but not limited to, computer printouts, magnetic storage media, and punch cards, or may be stored internally in the memory of a computer.

(6b) "Electronic mail service provider" means any person who (i) is an intermediary in sending or receiving electronic mail and (ii) provides to end users of electronic mail services the ability to send or receive electronic mail.

(7) "Financial instrument" includes any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security, or any electronic data processing representation thereof.

(8) "Property" includes financial instruments, information, including electronically processed or produced data, and computer software and computer programs in either

machine or human readable form, and any other tangible or intangible item of value.

(8a) "Resource" includes peripheral devices, computer software, computer programs, and data, and means to be a part of a computer, computer system, or computer network.

(9) "Services" includes computer time, data processing and storage functions.

(10) "Unsolicited" means not addressed to a recipient with whom the initiator has an existing business or personal relationship and not sent at the request of, or with the express consent of, the recipient."

Section 3. Article 60 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"*§ 14-458. Computer trespass; penalty.*

(a) It shall be unlawful for any person to use a computer or computer network without authority and with the intent to do any of the following:

(1) Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs, or computer software from a computer or computer network.

(2) Cause a computer to malfunction, regardless of how long the malfunction persists.

(3) Alter or erase any computer data, computer programs, or computer software.

(4) Cause physical injury to the property of another.

(5) Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network.

(6) Falsely identify with the intent to deceive or defraud the recipient or forge commercial electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk commercial electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

For purposes of this subsection, a person is "without authority" when (i) the person has no right or permission of the owner to use a computer, or the person uses a computer in a manner exceeding the right or permission, or (ii) the person uses a computer or computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk commercial electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider.

(b) Any person who violates this section shall be guilty of computer trespass, which offense shall be punishable as a Class 3 misdemeanor. If there is damage to the property of another and the damage is valued at less than two thousand five hundred dollars ($2,500) caused by the

person's act in violation of this section, the offense shall be punished as a Class 1 misdemeanor. If there is damage to the property of another valued at two thousand five hundred dollars ($2,500) or more caused by the person's act in violation of this section, the offense shall be punished as a Class I felony.

(c) Any person whose property or person is injured by reason of a violation of this section may sue for and recover any damages sustained and the costs of the suit pursuant to G.S. 1-539.2A."

Section 4. Article 43 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"*§ 1-539.2A. Damages for computer trespass.*

(a) Any person whose property or person is injured by reason of a violation of G.S. 14-458 may sue for and recover any damages sustained and the costs of the suit. Without limiting the general of the term, "damages" shall include loss of profits. If the injury arises from the transmission of unsolicited bulk commercial electronic mail, the injured person, other than an electronic mail service provider, may also recover attorneys' fees and may elect, in lieu of actual damages, to recover the lesser of ten dollars ($10.00) for each and every unsolicited bulk commercial electronic mail message transmitted in violation of this section, or twenty-five thousand dollars ($25,000) per day. The injured person shall not have a cause of action against the electronic mail service provider which merely transmits the unsolicited bulk commercial electronic mail over its computer network. If the injury arises from the transmission of unsolicited bulk commercial electronic mail, an injured electronic mail service provider may also recover attorneys' fees and costs and may elect, in lieu of actual damages, to recover the greater of ten dollars ($10.00) for each and every unsolicited bulk commercial electronic mail message transmitted in violation of this section, or twenty-five thousand dollars ($25,000) per day.

(b) A civil action under this section shall be commenced before expiration of the time period prescribed in G.S. 1-54. In actions alleging injury arising from the transmission of unsolicited bulk commercial electronic mail, personal jurisdiction may be exercised pursuant to G.S. 1-75.4(13)."

Section 5. This act becomes effective December 1, 1999. Section 3 of this act applies to offenses occurring on or after December 1, 1999. Section 4 of this act applies to violations of G.S. 14-458 occurring on or after December 1, 1999.

In the General Assembly read three times and ratified this the 15th day of June, 1999.

Became law upon approval of the Governor at 11:17 a.m. on the 25th day of June, 1999.

S.B. 878 **SESSION LAW 1999-213**

AN ACT TO ALLOW CERTAIN NONPROFIT WATER CORPORATIONS TO BE ELIGIBLE FOR REVOLVING LOANS

AND GRANTS FROM THE DRINKING WATER TREATMENT REVOLVING LOAN FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159G-2 reads as rewritten:

"§ *159G-2. Purpose.*

The General Assembly hereby recognizes that a critical need exists in this State to provide for a low-interest funding source for municipal water and wastewater capital facilities. Local government efforts to meet this need have been restricted by the inability of many units to finance necessary improvements to inadequate or nonexistent water supply and wastewater treatment systems. The decrease in financial capacity has resulted in large part from the diminished availability of federal loans and grants and the elimination of the federal general revenue sharing program, which funded a wide range of local capital improvements.

The problems have been further complicated by the uncertainty concerning Clean Water Act funding, the growing number of local units which are under moratoriums against additional connections for sewer service, and the July 1, 1988, deadline for compliance with federal effluent standards.

It is the intent and purpose of the General Assembly by this Chapter to create a program to facilitate early construction of these environmental improvements by establishing a revolving loan fund for financing such projects. This fund will enable local government units to obtain low-interest loans for financing projects for wastewater treatment ~~and water supply,~~ and for certain emergency purposes. This fund will also enable local government units and nonprofit water corporations to obtain low-interest loans for financing projects for water supply. It is the further intent and purpose of the General Assembly to provide grants to local government units for wastewater treatment and to provide grants to local government units and nonprofit water corporations for water supply facilities. The General Assembly seeks by this Chapter to encourage and assist local government units to meet their responsibilities to their citizens to maintain a clean and healthful environment and an abundant supply of pure water and further to provide an adequate base for economic growth."

Section 2. G.S. 159G-3 reads as rewritten:

"§ *159G-3. Definitions.*

As used in this Chapter, the following words shall have the meanings indicated, unless the context clearly requires otherwise:

(1) Repealed by Session Laws 1991, c. 186, s. 1.

(2) "Applicant" means a local government unit that applies for a revolving loan or grant under the provisions of this Chapter. In addition, a local government may provide funds to a nonprofit agency which is currently under contract and authorized to provide wastewater treatment or water supply services to that ~~unit of local government.~~ local government

unit. For purposes of the Drinking Water Treatment Revolving Loan Fund established by G.S. 159G-5(d), 'applicant' also means a nonprofit water corporation that is incorporated in compliance with Chapter 55A of the General Statutes solely for the purpose of providing community water or community water and wastewater and that is eligible for a federal loan or a federal loan and grant from the Rural Utility Services Division, U.S. Department of Agriculture.

(3) "Clean Water Revolving Loan and Grant Fund" means the fund established in the Department of Environment and Natural Resources to carry out the provisions of this Chapter, with various accounts therein as herein provided.

(4) "Construction costs" means the actual costs of planning, designing and constructing any project for which a revolving loan or grant is made under this Chapter including planning; environmental assessment; wastewater system analysis, evaluation and rehabilitation; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. Construction costs may include excess or reserve capacity costs, attributable to no more than 20-year projected domestic growth, plus ten percent (10%) unspecified industrial growth. In addition, construction costs shall include any fees payable to the Environmental Management Commission or the Division of Environmental Health for review of applications and grant of permits, and fees for inspections under G.S. 159G-14. Construction costs may also include the costs for purchase or acquisition of real property.

(5) "Grant" means a sum of money given by the State to ~~a local government unit~~ an applicant to subsidize the construction costs of a project authorized by this Chapter, without any obligation on the part of such unit to repay such sum.

(6) "Commission for Health Services" means the Commission for Health Services created by G.S. 130A-29.

(6a) "Debt instrument" means an instrument in the nature of a promissory note executed by ~~a local government unit~~ an applicant under the provisions of this Chapter, to evidence a debt to the State and obligation to repay the principal, plus interest, under stated terms.

(7) "Division of Environmental Health" means the Division of Environmental Health of the Department of Environment and Natural Resources.

(7a) "Economically distressed local government unit" means a local government unit located, in whole or in part, in a

county designated as economically distressed by the Secretary of Commerce under G.S. 143B-437A.

(8) "Environmental Management Commission" means the Environmental Management Commission of the Department of Environment and Natural Resources.

(9) "Local Government Commission" means the Local Government Commission of the Department of the State Treasurer, established by Article 2 of Chapter 159 of the General Statutes.

(10) "Local government unit" means a county, city, town, incorporated village, consolidated city-county, as defined by G.S. 160B-2(1), including such a consolidated city-county acting with respect to an urban service district defined by a consolidated city-county, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, joint agency authorized by agreement between two cities and towns to operate an airport pursuant to G.S. 63-56 and that also provided water and wastewater services off the airport premises before January 1, 1995, or joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.

(11) Repealed by Session Laws 1991, c. 186, s. 1.

(12) "Receiving agency" means the Division of Environmental Health with respect to receipt of applications for revolving loans and grants for water supply systems, and the Environmental Management Commission and the Division of Water Quality with respect to receipt of applications for revolving loans and grants for wastewater systems.

(13) "Revolving construction loan" means a sum of money loaned by the State to ~~a local government unit~~ an applicant to subsidize the construction costs of a project authorized by this Chapter, with an obligation on the part of ~~such unit~~ the applicant to repay such sum, the proceeds of such repayment to be deposited in the ~~Water Pollution Control Revolving Fund.~~ fund from which the loan was made.

(14) "Revolving emergency loan" means a sum of money loaned by the State to a local government unit upon a certification, as provided in this Chapter, of a serious public health hazard, with an obligation on the part of such unit to repay such sum.

(15) "Revolving loan" includes a revolving construction loan and an emergency loan.

(15a) "State" means the State of North Carolina.

(15b) "State Treasurer" means the Treasurer of the State elected pursuant to Article III, Section 7 of the Constitution or his designated representative.

(16) "Wastewater Accounts" means the various accounts in the Clean Water Revolving Loan and Grant Fund established in

the Department of Environment and Natural Resources under this Chapter for revolving loans and grants for wastewater treatment work and wastewater collection system projects.

(17) "Wastewater collection system" means a unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit.

(18) "Wastewater treatment works" means the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, phosphorous removal equipment, pumping, power and other equipment and their appurtenances.

(19) "Water Supply Accounts" means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the Department of Environment and Natural Resources under this Chapter for revolving loans and grants for water supply system projects.

(20) "Water supply system" means a public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures."

Section 3. G.S. 159G-4(c) reads as rewritten:

"(c) All payments of interest and repayments of principal resulting from revolving loans shall be credited to the respective accounts from which the revolving loan funds were disbursed. Terms and conditions for repayment of revolving loans shall be established by the Department of Environment and Natural Resources, with the assistance of the Local Government Commission, consistent with the requirements of the Federal Water Pollution Control Act and this Chapter. Provided, the interest rate for all revolving loans authorized by this Chapter shall be fixed at the same percent per annum as the interest rate fixed under the Federal Water Pollution Control Act for loans from the Water Pollution Control Revolving Fund established by G.S. 159G-5(c), not to exceed the lesser of four percent (4%) or one half (1/2) the prevailing national market rate for tax exempt general obligation debt of similar maturities derived from a published indicator. Provided further, the interest rate may be fixed at a lower rate per annum if authorized by the Federal Water Pollution Control Act Regulations. It is the intent of the General Assembly to provide uniform interest payments for all loans made to ~~units of local~~

~~government~~ applicants irrespective of the account from which loans are made for either wastewater or water supply projects."

Section 4. G.S. 159G-6 reads as rewritten:

"§ *159G-6. Distribution of funds.*

(a) Revolving loans and grants.

(1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to ~~local government units~~ applicants for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.

(2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one ~~local government unit~~ applicant during any fiscal year shall be eight million dollars ($8,000,000). The maximum principal amount of grants made to any ~~one local government unit~~ applicant during any fiscal year shall be three million dollars ($3,000,000).

(3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his or her responsibilities under this section, the State Treasurer shall make a written request to the Department of Environment and Natural Resources to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to ~~a local government unit~~ an applicant to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the ~~local government unit~~ applicant to provide funds for one or more revolving loans or grants.

(b) Wastewater Accounts. -- The sums allocated in G.S. 159G-4 and accruing to the various Wastewater Accounts in each fiscal year shall be used to make revolving loans and grants to local government units as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Wastewater Accounts except upon receipt of written approval of the disbursement from the Environmental Management Commission.

(1) General Wastewater Revolving Loan and Grant Account. -- The funds in the General Wastewater Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans or grants in connection with approved wastewater treatment work or wastewater collection system projects.

(2) High-Unit Cost Wastewater Account. -- The funds in the High-Unit Cost Wastewater Account shall be available for grants to applicants for high-unit cost wastewater projects. Eligibility of an applicant for such a grant shall be determined by comparing estimated average household user fees for water and sewer service, for debt service and operation and maintenance costs, to one and one-half percent (1.5%) of the median household income in the local government unit in which the project is located. The projects which would require estimated average household water and sewer user fees greater than one and one-half percent (1.5%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in subdivision (a)(2) of this section. However, if the applicant upon completion of the project will have only a single utility service, then the eligibility of the applicant for such a grant shall be determined by comparing estimated average household user fees for the single utility service that will be offered, for debt service and operation and maintenance costs, to three-fourths percent (3/4%) of the median household income in the local government unit in which the project is located. The single utility projects which would require estimated average household water or sewer user fees (as appropriate) greater than three-fourths percent (3/4%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in subdivision (a)(2) of this section.

(3) Emergency Wastewater Revolving Loan Account. -- The funds in the Emergency Wastewater Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Environmental Management Commission certifies that a serious public health hazard, related to the inadequacy of existing wastewater facilities, is present or imminent in a community.

(c) Water Supply Accounts. -- The sums allocated in G.S. 159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall be used to provide revolving loans and grants to ~~local government units~~ applicants as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Water Supply Accounts except upon receipt of written approval of the disbursement from the Division of Environmental Health.

(1) General Water Supply Revolving Loan and Grant Account. -- The funds in the General Water Supply Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans and grants in connection with water supply systems generally and not upon a county allotment basis.

(2) High-Unit Cost Water Supply Account. -- The funds in the High-Unit Cost Water Supply Account shall be available for grants to applicants for high-unit cost water supply systems, on the same basis as provided in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

(3) Emergency Water Supply Revolving Loan Account. -- The funds in the Emergency Water Supply Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Division of Environmental Health certifies that a serious public health hazard, related to the water supply system, is present or imminent in a community.

(d) Repealed by Session Laws 1991, c. 186, s. 4.

(e) Notwithstanding any other provision of this Chapter, funds in the Water Pollution Control Revolving Fund shall not be available as grants except to the extent permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations thereunder."

Section 5. G.S. 159G-9 reads as rewritten:

"§ *159G-9. Eligibility.*

No application shall be eligible for a revolving loan or grant under this Chapter unless it shall demonstrate to the satisfaction of the receiving agency that:

(1) The applicant is ~~a local government unit.~~ an applicant within the meaning of G.S. 159G-3(2).

(2) The applicant has the financial capacity to pay the principal of and the interest on its proposed obligations and loans.

(3) The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations and ordinances, federal, State and local.

(4) The applicant has agreed by official resolution to adopt and place into effect on or before completion of the project a schedule of fees, charges, and other available funds, including but not limited to the funds described in G.S. 159G-13(b), that will adequately provide for proper operation, maintenance, and administration of the project and for repayment of all principal of and interest on loans."

Section 6. G.S. 159G-10(b) reads as rewritten:

"(b) Priority Factors. -- All applications for revolving loans or grants under this Chapter eligible for consideration during each priority period shall be assigned a priority for such funds by the receiving agency. The priority factors shall be similar to those developed under the North Carolina Clean Water Bond Act of 1977, as provided in and modified by this subsection.

(1) General Criteria. --

a. The general criteria provided in 1 NCAC 22.0401 through .0403 on January 1, 1987, shall apply, except that 1 NCAC 22.0401(c) shall apply only to State funds appropriated to match available federal funds.

b. The existence of a comprehensive land-use plan that meets the requirements of subsection (e) of this section is a general criterion for prioritizing which ~~local government units~~ applicants will receive a loan or grant. ~~A local government unit~~ An applicant that is not authorized to adopt a comprehensive land-use plan but that is located in whole or in part in ~~another~~ a local government unit that has adopted a comprehensive land-use plan shall receive the same priority treatment as ~~a local government unit~~ an applicant that has authority to adopt a comprehensive land-use plan. A comprehensive land-use plan that meets the requirements of subsection (e) of this section and that exceeds the minimum State standards for protection of water resources shall receive more points than a plan that does not exceed those standards. Additional points may be awarded for actions taken toward implementation of a comprehensive land-use plan. These actions may include the adoption of a zoning ordinance or any other measure that significantly contributes to the implementation of the comprehensive land-use plan.

(2) Wastewater Treatment Work Projects. -- The priority criteria provided in 1 NCAC 22.0501 through .0506 on January 1, 1987, shall apply to applications for wastewater treatment work projects, except that 1 NCAC 22.0503 shall not apply.

(3) Wastewater Collection System Projects. -- The priority criteria provided in 1 NCAC 22.0601 through .0606 on January 1, 1987, shall apply to applications for wastewater collection system projects, except that 1 NCAC 22.0601(2)(a) and (3), and 1 NCAC 22.0605(2), (3) and (4) shall not apply.

(4) Water Supply System Projects. -- The priority criteria provided in 1 NCAC 22.0701 through .0704 on January 1, 1987, shall apply to applications for water supply system projects.

(5) Wastewater Treatment Works Improvements to Meet Nitrogen and Phosphorous Limits. -- The Environmental Management Commission shall adopt a rule specifying priority criteria for modifications to existing permitted wastewater treatment facilities that are owned or operated by local government units and that are subject to G.S. 143-215.1(c1) or G.S. 143-215.1(c2) to enable local government units to comply with G.S. 143-215.1(c1) and G.S. 143-215.1(c2).

(6) The total number of points available in the respective categories shall be deemed adjusted in accordance with the provisions of subdivisions (1) through (5) of this subsection."

Section 7. G.S. 159G-13(a) reads as rewritten:

"(a) To be eligible to receive the revolving loans and grants provided for in this Chapter, ~~local government units~~ applicants shall arrange to borrow the amounts necessary to be borrowed in connection therewith pursuant to the Local Government Finance Act or as provided in this Chapter as applicable. ~~Local government units~~ Applicants may apply for the revolving loans and grants prior to arranging for such borrowing."

Section 8. G.S. 159G-14 reads as rewritten:

"§ *159G-14. Inspection.*

Inspection of a project for which a revolving loan or grant has been made under this Chapter may be performed by qualified personnel of the Division of Environmental Health or the Environmental Management Commission or may be performed by qualified professional engineers, registered in this State, who have been approved by the Division of Environmental Health or the Environmental Management Commission; but no person shall be approved to perform inspections who is an officer or employee of the ~~unit of government~~ applicant to which the revolving loan or grant was made or who is an owner, officer, employee or agent of a contractor or subcontractor engaged in the construction of the project for which the revolving loan or grant was made. For the purpose of payment of inspection fees, inspection services shall be included in the term "construction cost" as used in this Chapter."

Section 9. G.S. 159G-15(b) reads as rewritten:

"(b) A copy of its rules adopted to implement the provisions of this Chapter shall be furnished free of charge by the receiving agency and the Department of Environment and Natural Resources to any ~~local government unit.~~ applicant."

Section 10. G.S. 159G-18 reads as rewritten:

"§ *159G-18. ~~Local government~~ Applicant borrowing authority.*

(a) ~~Local government units~~ Applicants may execute debt instruments payable to the State in order to obtain revolving loans provided for in this Chapter. ~~Local government units~~ Applicants shall pledge as security for such obligations the user fee revenues derived from operation of the benefited facilities or systems only, or other sources of revenue, or their faith and credit, or any combination thereof. The faith and credit of ~~such~~ applicants that are local government units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use by applicants under this Chapter. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments by applicants to the State without any public bidding therefor.

(b) The Local Government Commission shall review and approve proposed loans to applicants that are local government units under this Chapter under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as

those provisions are applicable. The Local Government Commission shall review and approve proposed loans to applicants that are nonprofit water corporations under this Chapter under the provisions of G.S. 159-153, so far as those provisions are applicable. Revolving loans under this Chapter shall be outstanding debt of applicants that are local government units for the purpose of Article 10, Chapter 159 of the General Statutes."

Section 11. G.S. 159-153 is amended by adding a new subsection to read:

"(a1) Commission Approval Required for Nonprofit Water Corporation Loans From the Clean Water Revolving Loan and Trust Fund. -- In addition to the requirements of Chapter 159G of the General Statutes, approval by the Commission in accordance with this section is required before a nonprofit water corporation may be eligible to receive a revolving loan or grant under Chapter 159G of the General Statutes."

Section 12. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 15th day of June, 1999.

Became law upon approval of the Governor at 11:18 a.m. on the 25th day of June, 1999.

S.B. 1068 **SESSION LAW 1999-214**

AN ACT TO AUTHORIZE LOCAL LAW ENFORCEMENT AGENCIES TO ACCESS THE CRIMINAL INFORMATION NETWORK TO RUN CRIMINAL BACKGROUND CHECKS ON VOLUNTEERS FOR THE MCGRUFF HOUSES PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ *114-19.9. Criminal record checks of McGruff House Program volunteers.*

(a) Authority. -- The Department of Justice and the Federal Bureau of Investigation may provide to any local law enforcement agency a criminal record check of any individual who applies as a volunteer for the McGruff House Program in that community and a criminal record check of all persons 18 years of age or older who live in the applying household. The North Carolina criminal record check may also be done by a certified DCI operator within the local law enforcement agency.

(b) Procedure. -- A criminal record check must be conducted by using an individual's fingerprints and all identification information required by the Department of Justice to identify that individual. A criminal record check shall be provided only if: (i) the individual whose record is checked consents to the record check, and (ii) every individual who is 18 years of age or older who lives in the household also consents to the record check. Refusal to give consent is

considered withdrawal of the application. The information shall be kept confidential by the local law enforcement agency that receives the information. If the confidential information is disclosed under this section, the Department may refuse to provide further criminal record checks to that local law enforcement agency."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of June, 1999.

Became law upon approval of the Governor at 11:20 a.m. on the 25th day of June, 1999.

S.B. 178 **SESSION LAW 1999-215**

AN ACT TO BE KNOWN AS THE NORTH CAROLINA UNIFORM PRUDENT INVESTOR ACT, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 36A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 15.

"North Carolina Uniform Prudent Investor Act.

"*§ 36A-161. Prudent investor rule; applicability.*

(a) Except as otherwise provided in subsection (b) of this section, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this Article.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust which govern or direct investments in a manner inconsistent with this Article. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

(c) This Article applies to express trusts, including charitable, inter vivos, and testamentary trusts, and trustees of those trusts. The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this Article: 'investments in accordance with Article 15 of Chapter 36A,' 'investments permissible by law for investment of trust funds,' 'legal investments,' 'authorized investments,' 'using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital,' 'prudent man rule,' 'prudent trustee rule,' 'prudent person rule,' and 'prudent investor rule.'

This Article also applies where a trust contains no investment standard. A reference to 'Chapter 36A' in a trust instrument

governing a trust executed prior to the effective date of this Article shall be construed to be a reference to this Article.

(d) This Article does not apply:

(1) Unless the provisions of the trust provide otherwise by specific reference to this Article, to:

a. Trusts under any federal employee retirement income security statute or other retirement or pension trusts;

b. Trusts which are created by legislative act;

c. Trusts which are created by or pursuant to premarital or postmarital agreements, divorce settlements, settlements of other proceedings or disputes;

d. Transfers under the Uniform Transfers to Minors Act;

e. Transfers under the Uniform Custodial Trust Act; or

f. Honorary trusts, trusts for pets, and trusts for cemetery lots.

(2) To trusts imposed or required under another chapter of the General Statutes or by rule in which the investment of the trust funds is regulated by the other chapter or by rule, unless a provision of the other chapter or the rule provides otherwise by a specific reference to this Article.

(3) To:

a. Constructive trusts and resulting trusts;

b. Guardianship, conservatorship, and estates managed by personal representatives;

c. Trust accounts as defined in G.S. 53-146.2, 54-109.57, 54C-166, and 54B-130; or

d. Business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interests, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

"*§ 36A-162. Standard of care; portfolio strategy; risk and return objectives.*

(a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are any of the following as are relevant to the trust or its beneficiaries:

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

(3) The expected tax consequences of investment decisions or strategies;

(4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;

(5) The expected total return from income and the appreciation of capital;

(6) Other resources of the beneficiaries known to the trustee;

(7) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(8) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this Article.

(f) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

"*§ 36A-163. Diversification.*

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

"*§ 36A-164. Duties at inception of trusteeship.*

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this Article.

"*§ 36A-165. Loyalty.*

A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

"*§ 36A-166. Impartiality.*

If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

"*§ 36A-167. Investment costs.*

In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the trustee.

"*§ 36A-168. Reviewing compliance.*

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

"*§ 36A-169. Delegation of investment and management functions.*

(a) A trustee may delegate investment and management functions if it is prudent to do so under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent;

(2) Establishing the scope and terms of any delegation, consistent with the purposes and terms of the trust; and

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of subsection (a) of this section is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this State, an agent submits to the jurisdiction of the courts of this State.

"*§ 36A-170. Effect on charitable remainder trusts.*

Nothing in this Article shall prevent the application of Article 4A of this Chapter to 'charitable remainder trusts' as defined in G.S. 36A-59.3(1).

"*§ 36A-171. Application to existing trusts.*

This Article applies to trusts existing on and created after its effective date. As applied to trusts existing on its effective date, this Article governs only actions or omissions occurring after that date.

"*§ 36A-172. Short title.*

This Article may be cited as the 'North Carolina Uniform Prudent Investor Act.'

"*§ 36A-173. Severability.*

If any provision of this Article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable."

Section 2. G.S. 36A-2 reads as rewritten:

"*§ 36A-2. Investment; prudent ~~man~~ person rule.*

(a) In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of another, a fiduciary shall observe the standard of judgment and care under the circumstances then prevailing, which an ordinarily prudent ~~man~~ person of discretion and intelligence, who is a fiduciary of the property of others, would observe as such fiduciary; and if the fiduciary has special skills or is named a fiduciary on the basis of representations of special skills or expertise, ~~he~~ the fiduciary is under a duty to use those skills. This subsection and subsection (b) of this section do not apply to trusts governed by Article 15 of this Chapter.

(b) Within the limitations of the foregoing standard, a fiduciary is authorized to acquire and retain every kind of property and every kind

of investment, including specifically, but without in any way limiting the generality of the foregoing, bonds, debentures, and other corporate or governmental obligations; stocks, preferred or common; real estate mortgages; shares in building and loan associations or savings and loan associations; annual premium or single premium life, endowment, or annuity contracts; and securities of any management type investment company or investment trust registered under the Federal Investment Company Act of 1940, as from time to time amended.

(c) Notwithstanding the provisions of subsections (a) and (b) of this ~~section,~~ section and Article 15 of this Chapter, the duties of a trustee with respect to acquiring or retaining a contract of insurance upon the life of the settlor, or the lives of the settlor and the settlor's spouse, do not include a duty (i) to determine whether any such contract is or remains a proper investment; (ii) to exercise policy options available under any such contract; or (iii) to diversify any such contract. A trustee is not liable to the beneficiaries of the trust or to any other party for any loss arising from the absence of those duties upon the trustee.

(d) The trustee of a trust described under subsection (c) of this section established prior to October 1, 1995, shall notify the settlor in writing that, unless the settlor provides written notice to the contrary to the trustee within 60 days of the trustee's notice, the provisions of subsection (c) of this section shall apply to the trust. Subsection (c) of this section shall not apply if, within 60 days of the trustee's notice, the settlor notifies the trustee that subsection (c) of this section shall not apply."

Section 3. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the Official Comments to the Uniform Prudent Investor Act and all explanatory comments of the drafters of this act as the Revisor deems appropriate.

Section 4. This act becomes effective January 1, 2000.

In the General Assembly read three times and ratified this the 16th day of June, 1999.

Became law upon approval of the Governor at 11:21 a.m. on the 25th day of June, 1999.

S.B. 246 **SESSION LAW 1999-216**

AN ACT TO CLARIFY AND REVISE THE PROCEDURES GOVERNING APPEALS OR TRANSFERS FROM CLERKS OF SUPERIOR COURT TO THE TRIAL COURTS AND TO MAKE CONFORMING AND CLARIFYING AMENDMENTS TO OTHER RELATED SECTIONS OF THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

PART I. APPEALS AND TRANSFERS FROM THE CLERK

Section 1. Subchapter IX of Chapter 1 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27A.

"Appeals and Transfers From the Clerk.

"*§ 1-301.1. Appeal of clerk's decision in civil actions.*

(a) Applicability. -- This section applies to orders or judgments entered by the clerk of superior court in civil actions in which the clerk exercises the judicial powers of that office. If this section conflicts with a specific provision of the General Statutes, that specific provision of the General Statutes controls.

(b) Appeal of Clerk's Order or Judgment. -- A party aggrieved by an order or judgment entered by the clerk may, within 10 days of entry of the order or judgment, appeal to the appropriate court for a trial or hearing de novo. The order or judgment of the clerk remains in effect until it is modified or replaced by an order or judgment of a judge. Notice of appeal shall be filed with the clerk in writing. Notwithstanding the service requirement of G.S. 1A-1, Rule 58, orders of the clerk shall be served on other parties only if otherwise required by law. A judge of the court to which the appeal lies or the clerk may issue a stay of the order or judgment upon the appellant's posting of an appropriate bond set by the judge or clerk issuing the stay.

(c) Duty of Judge on Appeal. -- Upon appeal, the judge may hear and determine all matters in controversy in the civil action, unless it appears to the judge that any of the following apply:

(1) The matter is one that involves an action that can be taken only by a clerk.

(2) Justice would be more efficiently administered by the judge's disposing of only the matter appealed.

When either subdivision (1) or subdivision (2) of this subsection applies, the judge shall dispose of the matter appealed and remand the action to the clerk. When subdivision (1) of this subsection applies, the judge may order the clerk to take the action.

(d) Judge's Concurrent Authority Not Affected. -- If both the judge and the clerk are authorized by law to enter an order or judgment in a matter in controversy, a party may seek to have the judge determine the matter in controversy initially.

"*§ 1-301.2. Transfer or appeal of special proceedings; exceptions.*

(a) Applicability. -- This section applies to special proceedings heard by the clerk of superior court in the exercise of the judicial powers of that office. If this section conflicts with a specific provision of the General Statutes, that specific provision of the General Statutes controls.

(b) Transfer. -- Except as provided in subsections (g) and (h) of this section, when an issue of fact, an equitable defense, or a request for equitable relief is raised in a pleading in a special proceeding or in a pleading or written motion in an adoption proceeding, the clerk shall transfer the proceeding to the appropriate court. In court, the

proceeding is subject to the provisions in the General Statutes and to the rules that apply to actions initially filed in that court.

(c) Duty of Judge on Transfer. -- Whenever a special proceeding is transferred to a court pursuant to subsection (b) of this section, the judge may hear and determine all matters in controversy in the special proceeding, unless it appears to the judge that justice would be more efficiently administered by the judge's disposing of only the matter leading to the transfer and remanding the special proceeding to the clerk.

(d) Clerk to Decide All Issues. -- If a special proceeding is not transferred or is remanded to the clerk after an appeal or transfer, the clerk shall decide all matters in controversy to dispose of the proceeding.

(e) Appeal of Clerk's Decisions. -- A party aggrieved by an order or judgment of a clerk that finally disposed of a special proceeding, may, within 10 days of entry of the order or judgment, appeal to the appropriate court for a hearing de novo. Notice of appeal shall be in writing and shall be filed with the clerk. The order or judgment of the clerk remains in effect until it is modified or replaced by an order or judgment of a judge. A judge of the court to which the appeal lies or the clerk may issue a stay of the order or judgment upon the appellant's posting of an appropriate bond set by the judge or clerk issuing the stay. Any matter previously transferred and determined by the court shall not be relitigated in a hearing de novo under this subsection.

(f) Service. -- Notwithstanding the service requirement of G.S. 1A-1, Rule 58, orders of the clerk shall be served on other parties only if otherwise required by law.

(g) Exception for Incompetency and Foreclosure Proceedings. --

(1) Proceedings for adjudication of incompetency or restoration of competency under Chapter 35A of the General Statutes shall not be transferred even if an issue of fact, an equitable defense, or a request for equitable relief is raised. Appeals from orders entered in these proceedings are governed by Chapter 35A to the extent that the provisions of that Chapter conflict with this section.

(2) Foreclosure proceedings under Article 2A of Chapter 45 of the General Statutes shall not be transferred even if an issue of fact, an equitable defense, or a request for equitable relief is raised. Equitable issues may be raised only as provided in G.S. 45-21.34. Appeals from orders entered in these proceedings are governed by Article 2A of Chapter 45 to the extent that the provisions of that Article conflict with this section.

(h) Exception for Partition Proceedings. -- Notwithstanding the provisions of subsection (b) of this section, the issue whether to order the actual partition or the sale in lieu of partition of real property that is the subject of a partition proceeding shall not be transferred and shall be determined by the clerk. The clerk's order determining this

issue, though not a final order, may be appealed pursuant to subsection (e) of this section.

"*§ 1-301.3. Appeal of estate matters determined by clerk.*

(a) Applicability. -- This section applies to matters arising in the administration of testamentary trusts and of estates of decedents, incompetents, and minors. G.S. 1-301.2 applies in the conduct of a special proceeding when a special proceeding is required in a matter relating to the administration of an estate.

(b) Clerk to Decide Estate Matters. -- In matters covered by this section, the clerk shall determine all issues of fact and law. The clerk shall enter an order or judgment, as appropriate, containing findings of fact and conclusions of law supporting the order or judgment.

(c) Appeal to Superior Court. -- A party aggrieved by an order or judgment of the clerk may appeal to the superior court by filing a written notice of the appeal with the clerk within 10 days of entry of the order or judgment. The notice of appeal shall specify the basis for the appeal. Unless otherwise provided by law, a judge of the superior court or the clerk may issue a stay of the order or judgment upon the appellant's posting an appropriate bond set by the judge or clerk issuing the stay. While the appeal is pending, the clerk retains authority to enter orders affecting the administration of the estate, subject to any order entered by a judge of the superior court limiting that authority.

(d) Duty of Judge on Appeal. -- Upon appeal, the judge of the superior court shall review the order or judgment of the clerk for the purpose of determining only the following:

(1) Whether the findings of fact are supported by the evidence.

(2) Whether the conclusions of law are supported by the findings of facts.

(3) Whether the order or judgment is consistent with the conclusions of law and applicable law.

It is not necessary for a party to object to the admission or exclusion of evidence before the clerk in order to preserve the right to assign error on appeal to its admission or exclusion. If the judge finds prejudicial error in the admission or exclusion of evidence, the judge, in the judge's discretion, shall either remand the matter to the clerk for a subsequent hearing or resolve the matter on the basis of the record. If the record is insufficient, the judge may receive additional evidence on the evidentiary issue in question. The judge may continue the case if necessary to allow the parties time to prepare for a hearing to receive additional evidence.

(e) Remand After Disposition of Issue on Appeal. -- The judge, upon determining the matter appealed from the clerk, shall remand the case to the clerk for such further action as is necessary to administer the estate.

(f) Recording of Estate Matters. -- In the discretion of the clerk or upon request by a party, all hearings and other matters covered by this section shall be recorded by an electronic recording device. A transcript of the proceedings may be ordered by a party, by the clerk,

or by the presiding judge. If a recordation is not made, the clerk shall submit to the superior court a summary of the evidence presented to the clerk."

Section 2. G.S. 1-174, 1-272, 1-273, 1-274, 1-275, 1-276, 1-399, and 36A-28 are repealed.

PART II. CONFORMING AND CLARIFYING AMENDMENTS

Section 3. G.S. 1-242 reads as rewritten:

"*§ 1-242. Credits upon judgments.*

~~Where a~~ If payment ~~has been~~ is made on a judgment docketed in the office of the clerk of the superior ~~court,~~ court and no entry is made on the judgment docket, or ~~where any~~ if a docketed judgment ~~appealed from has been~~ is reversed or modified on appeal and no entry is made on ~~such~~ the judgment docket, any interested person ~~interested therein~~ may move in the cause before the clerk, upon affidavit after notice to all ~~persons interested,~~ interested persons, to have ~~such~~ the credit, ~~reversal~~ reversal, or modification ~~entered; and upon the hearing before the clerk he may hear affidavits,~~ entered. A hearing on the motion before the clerk may be on affidavit, oral testimony, ~~depositions~~ deposition, and any other competent ~~evidence, and~~ evidence. The clerk shall render ~~his~~ judgment, from which any party may appeal in the same manner as in appeals in special proceedings. ~~On the trial of any issue of fact on the appeal either~~ On appeal, any party may demand a jury ~~trial, which shall be had upon the evidence before the clerk, which he shall reduce to writing,~~ trial of any issue of fact. ~~On~~ If a final judgment ~~ordering any such~~ orders the credit, ~~reversal~~ reversal, or modification, a transcript ~~thereof~~ of the final judgment shall be sent by the clerk of the superior court to each county in which the original judgment ~~has been~~ is docketed, and the clerk of ~~such~~ each county shall enter the ~~same~~ transcript on the judgment docket of ~~his~~ that county opposite ~~such~~ the original judgment and file the transcript. No final process ~~shall~~ may issue on ~~any such~~ the original judgment after affidavit filed in the cause until there is a final disposition of the motion for credit, ~~reversal~~ reversal, or ~~modification has been finally disposed of.~~ modification."

Section 4. G.S. 1-408 reads as rewritten:

"*§ 1-408. Action in which clerk may allow fees of commissioners; fees taxed as costs.*

~~In all civil actions and special proceedings instituted in the superior court in which a commissioner, or commissioners, are appointed under a judgment by the clerk of said court, said clerk shall have full power and authority and he is hereby authorized and empowered to fix and determine and allow to such commissioner or commissioners a reasonable fee for their services performed under such order, decree or judgment, which fee shall be taxed as part of the costs in such action or proceeding, and any dissatisfied party shall have the right to appeal to the judge, who shall hear the same de novo.~~ In a civil action or special proceeding commenced in the superior court in which a commissioner or commissioners are appointed under an order or

judgment entered by the clerk of the superior court, the clerk may fix a reasonable fee for the services of the commissioner or commissioners performed under the order or judgment. The fee shall be taxed as part of the costs in the action or proceeding. Any aggrieved party has the right to appeal as provided in Article 27A of Chapter 1 of the General Statutes."

Section 5. G.S. 1-408.1 reads as rewritten:

"§ *1-408.1. Clerk may order surveys in civil actions and special proceedings involving sale of land.*

In ~~all~~ civil actions and special proceedings ~~instituted~~ commenced in the superior court before the clerk where real property is to be sold to make assets to pay debts, or to be sold for division, or to be partitioned, the clerk may, ~~if, in his opinion,~~ if all parties to the action or proceedings will benefit ~~thereby,~~ by a survey, order a survey of the land involved, appoint a surveyor for this purpose, and fix a reasonable fee for ~~his services, which fee, along with other costs of the survey,~~ the services of the surveyor. The fee and other costs of the survey shall be taxed as a part of the costs in ~~such~~ the action or proceedings. Any ~~dissatisfied~~ aggrieved party ~~shall have~~ has the right to appeal ~~to the judge, who shall hear the same de novo.~~ as provided in Article 27A of Chapter 1 of the General Statutes."

Section 6. G.S. 1-474 reads as rewritten:

"§ *1-474. Order of seizure and delivery to plaintiff.*

(a) Order. -- The clerk of court may, upon notice and hearing as provided in ~~G.S. 1-474.1,~~ G.S. 1-474.1 and upon the giving by the plaintiff of the undertaking prescribed in G.S. 1-475, require the sheriff of the county where the property claimed is located to take ~~said~~ the property from the defendant and deliver it to the plaintiff. The act of the clerk in issuing or refusing to issue the order to the sheriff is a judicial act and may be appealed pursuant to G.S. 1-301.1 to the judge of the district or superior court having jurisdiction of the principal action.

(b) Expiration of Certain Orders. -- When delivery of property is claimed from a debtor who allegedly defaulted on his payments for personal property purchased under a conditional sale contract, a purchase money security agreement or on a loan secured by personal property, an order of seizure and delivery to the plaintiff for that property expires 60 days after it is issued."

Section 7. G.S. 32A-14.11 reads as rewritten:

"§ *32A-14.11. Appeal; stay effected by appeal.*

Any party in interest may appeal from the decision of the clerk to the judge of the superior court. The procedure for appeal ~~shall be the same as the procedure for appeal in other special proceedings~~ is governed by ~~Article 33~~ Article 27A of Chapter 1 of the General Statutes. An appeal taken from the decision of the clerk ~~shall stay~~ stays the decision and order of the clerk until the cause is heard and determined by the judge upon the appeal taken."

Section 8. G.S. 36A-27 reads as rewritten:

"§ *36A-27. Appeal; stay effected by appeal.*

Any party in interest may appeal from the decision of the clerk to the judge at chambers, and in such event the procedure for appeal ~~shall be the same as in other special proceedings as now provided by law.~~ is governed by Article 27A of Chapter 1 of the General Statutes. If the clerk allows the ~~resignation,~~ resignation and an appeal is taken from ~~his decision, such~~ the decision of the clerk, the appeal ~~shall have the effect to stay~~ stays the judgment and order of the clerk until the cause is heard and determined by the judge upon the appeal taken."

Section 9. G.S. 36A-33 reads as rewritten:

"*§ 36A-33. Appointment of successors to deceased or incapacitated trustees.*

Upon the death or incapacity of a trustee, a new trustee may be appointed on application by any beneficiary, or other interested persons, by petition to the clerk of the superior court of the county in which the instrument under which the deceased or incapacitated trustee claimed is registered, making all necessary parties defendants. The clerk shall docket the cause as a special proceeding and issue summons for the defendants, and the procedure shall be the same as in other special proceedings. If any of the defendants be nonresidents, summons may be served by publication; and if any be infants, a guardian ad litem must be appointed. The beneficiaries, creditors, or any other persons interested in the trust estate shall have the right to answer the petition and to offer evidence why the prayer of the petition should not be granted. After hearing the matter, the clerk may appoint the person so named in the petition, or he may appoint some other fit and suitable person or corporation to act as the successor of the deceased or incapacitated trustee; and the clerk shall require the person so appointed to give bond as required in G.S. 36A-31; provided, that where by the terms of the instrument upon which the deceased or incapacitated trustee claimed, said trustee was not required to give bond and did not give bond and an intent is expressed in the creating instrument that a successor trustee shall serve without bond, or where the clerk upon due investigation, finds that bond is not necessary for the protection of the estate, the requirement of a bond for the successor trustee may be waived as provided in G.S. 36A-31. Any party in interest may appeal from the ~~decision~~ order or judgment of the clerk as provided in ~~G.S. 36A-27 and 36A-28.~~ Article 27A of Chapter 1 of the General Statutes.

Nothing in this section shall be construed to limit the authority of the clerk of superior court to appoint a successor trustee to a deceased or incapacitated trustee upon his own motion."

Section 10. G.S. 44A-4(b)(1) reads as rewritten:

"(1) If the property upon which the lien is claimed is a motor vehicle that is required to be registered, the lienor following the expiration of the relevant time period provided by subsection (a) shall give notice to the Division of Motor Vehicles that a lien is asserted and sale is proposed and shall remit to the Division a fee of ten dollars ($10.00). The Division of Motor Vehicles shall issue notice by

registered or certified mail, return receipt requested, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party and other person claiming an interest in the property who is actually known to the Division or who can be reasonably ascertained. The notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the Division by registered or certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the Division that a hearing is desired. The notice shall state the required information in simplified terms and shall contain a form whereby the recipient may notify the Division that a hearing is desired by the return of such form to the Division. The Division shall notify the lienor whether such notice is timely received by the Division. In lieu of the notice by the lienor to the Division and the notices issued by the Division described above, the lienor may issue notice on a form approved by the Division pursuant to the notice requirements above. If notice is issued by the lienor, the recipient shall return the form requesting a hearing to the lienor, and not the Division, within 10 days from the date the recipient receives the notice if a judicial hearing is requested. Failure of the recipient to notify the Division or lienor, as specified in the notice, within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to the sale of the property against which the lien is asserted, and the lienor may proceed to enforce the lien by public or private sale as provided in this section and the Division shall transfer title to the property pursuant to such sale. If the Division or lienor, as specified in the notice, is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section and the Division will transfer title only pursuant to the order of a court of competent jurisdiction.

If the registered or certified mail notice has been returned as undeliverable, or if the name of the person having legal title to the vehicle cannot reasonably be ascertained and the fair market value of the vehicle is less than eight hundred dollars ($800.00), the lienor may institute a special proceeding in the county where the vehicle is being held, for authorization to sell that vehicle. Market value shall be determined by the schedule of values adopted by the Commissioner under G.S. 105-187.3.

In such a proceeding a lienor may include more than one vehicle, but the proceeds of the sale of each shall be subject only to valid claims against that vehicle, and any excess proceeds of the sale shall escheat to the State and be paid immediately to the treasurer for disposition pursuant to Chapter 116B of the General Statutes. A vehicle owner or possessor claiming an interest in such proceeds shall have a right of action under G.S. 116B-38.

The application to the clerk in such a special proceeding shall contain the notice of sale information set out in subsection (f) hereof. If the application is in proper form the clerk shall enter an order authorizing the sale on a date not less than 14 days therefrom, and the lienor shall cause the application and order to be sent immediately by first-class mail pursuant to G.S. 1A-1, Rule 5, to each person to whom notice was mailed pursuant to this subsection. Following the authorized sale the lienor shall file with the clerk a report in the form of an affidavit, stating that the lienor has complied with the public or private sale provisions of G.S. 44A-4, the name, address, and bid of the high bidder or person buying at a private sale, and a statement of the disposition of the sale proceeds. The clerk then shall enter an order directing the Division to transfer title accordingly.

If prior to the sale the owner or legal possessor contests the sale or lien in a writing filed with the clerk, the proceeding shall be handled in accordance with ~~G.S. 1-399.~~ G.S. 1-301.2."

Section 11. G.S. 46-19 reads as rewritten:

"§ *46-19. Confirmation and impeachment of report.*

(a) If no exception to the report of the commissioners is filed within 10 days, the same shall be confirmed. Any party after confirmation may impeach the proceedings and decrees for mistake, fraud or collusion by petition in the cause: Provided, innocent purchasers for full value and without notice shall not be affected thereby.

(b) If an exception to the report of commissioners is filed, the clerk shall do one of the following:

(1) Confirm the report;

(2) Recommit the report for correction or further consideration;

(3) Vacate the report and direct a reappraisal by the same commissioners; or

(4) Vacate the report, discharge the commissioners, and appoint new commissioners to view the premises and make a partition of them.

(c) Appeal from the clerk to superior court of an order of confirmation of the report of commissioners is governed by G.S. 1-301.2 except that the judge may take only the actions specified in subsection (b) of this section and may not adjudge a partition of the land different from that made by the commissioners."

Section 11.1. G.S. 48-2-607(b) reads as rewritten:

"(b) ~~A party to an adoption proceeding may appeal a final decree of adoption by giving notice of appeal as provided in G.S. 1-272 and G.S. 1-279.1.~~ A party to an adoption proceeding may appeal a final decree of adoption entered by a clerk of superior court to district court by giving notice of appeal as provided in G.S. 1-301.2. A party to an adoption proceeding may appeal a judgment or order entered by a judge of district court by giving notice of appeal as provided in G.S. 1-279.1."

Section 12. G.S. 65-75(a) reads as rewritten:

"(a) If the consent of the landowner cannot be obtained, any person listed in G.S. 65-74(1), (2), or (3) may commence a special proceeding by petitioning the clerk of superior court of the county in which ~~he~~ the petitioner has reasonable grounds to believe the deceased is buried, or in the case of an abandoned public cemetery, in the county in which the abandoned public cemetery is ~~located~~ located, for an order allowing ~~him~~ the petitioner to enter the property to discover, restore, maintain, or visit the grave or abandoned public cemetery. The petition shall be verified. ~~This~~ The special proceeding shall be in accordance with the provisions of ~~Article~~ Articles 27A and 33 of Chapter 1 of the General Statutes. The clerk shall issue an order allowing the petitioner to enter the property if ~~he finds that:~~ the clerk finds all of the following:

(1) There are reasonable grounds to believe that the grave or abandoned public cemetery is located on the property or that it is reasonably necessary to enter or cross the landowner's property to reach the grave or abandoned public ~~cemetery;~~ cemetery.

(2) The petitioner, or his designee, is a descendant of the deceased, or that the petitioner has a special interest in the grave or abandoned public ~~cemetery; and~~ cemetery.

(3) The entry on the property would not unreasonably interfere with the enjoyment of the property by the landowner."

Section 13. G.S. 101-2 reads as rewritten:

"*§ 101-2. Procedure for changing name; petition; notice.*

A person who wishes, for good cause shown, to change his or her name must file ~~his~~ an application before the clerk of the superior court of the county in which ~~he~~ the person lives, ~~having first given~~

after giving 10 days' notice of the application by publication at the courthouse door.

~~Applications~~ An application to change the name of ~~minor children~~ a minor child may be filed by ~~their~~ the child's parent or ~~parents or guardian or~~ parents, guardian, or ~~next friend of such minor children,~~ guardian ad litem, and ~~such applications~~ this application may be joined in the application for a change of name filed by ~~their~~ the parent or ~~parents: Provided nothing herein~~ parents. Nothing in this section shall be construed to permit one parent to make ~~such~~ an application on behalf of a minor child without the consent of the other parent ~~of such minor child~~ if both parents ~~be living,~~ are living; except that a minor who has reached the age of 16 years, upon proper application to the ~~clerk~~ clerk, may change his or her ~~name,~~ name with the consent of the parent who has custody of the minor and has supported the minor, without the necessity of obtaining the consent of the other parent, when the clerk of court is satisfied that the other parent has abandoned the minor. ~~Provided, further, that a~~ A change of parentage or the addition of information relating to parentage on the birth certificate of any person ~~shall be made pursuant to~~ is governed by G.S. 130A-118.

~~Notwithstanding any other provisions of this section, the~~ The consent of a parent who has abandoned a minor child ~~shall not be~~ is not required if ~~there is filed with the clerk~~ a copy of an order of a court of competent jurisdiction adjudicating that ~~such parent has abandoned such~~ parent's abandonment of the minor ~~child.~~ if filed with the clerk. ~~In the event that~~ If a court of competent jurisdiction has not ~~therefore~~ declared the minor ~~child~~ to be an abandoned child, ~~then~~ the clerk, on 10 days' written notice by registered or certified mail, directed to the last known address of the ~~of not less than 10 days to the~~ parent alleged to have abandoned the child, ~~by registered or certified mail directed to such parent's last known address, the clerk of superior court is hereby authorized to~~ may determine whether ~~an abandonment has taken place.~~ the parent has abandoned the child. If ~~said~~ the parent denies that ~~an abandonment has taken place,~~ the parent abandoned the child, this issue of fact shall be transferred and determined as provided in ~~G.S. 1-273,~~ G.S. 1-301.2. ~~and if~~ If abandonment is determined, ~~then~~ the consent of ~~said~~ the parent ~~shall not be~~ is not required. Upon final determination of this issue of fact the proceeding shall be transferred back to the special proceedings docket for further action by the clerk."

Section 14. G.S. 105-374(h) reads as rewritten:

"(h) Joint Foreclosure by Two or More Taxing Units. -- Liens of different taxing units on the same parcel of real property, representing taxes in the hands of the same tax collector, shall be foreclosed in one action. Liens of different taxing units on the same parcel of real property, representing taxes in the hands of different tax collectors, may be foreclosed in one action in the discretion of the governing bodies of the taxing units.

The lien of any taxing unit made a party defendant in any foreclosure action shall be alleged in an answer filed by the taxing unit, and the tax collector of each answering unit shall, prior to judgment ordering sale, file a certificate of subsequent taxes similar to that filed by the tax collector of the plaintiff unit, and the taxes of each answering unit shall be of equal dignity with the taxes of the plaintiff unit. Any answering unit may, in case of payment of the plaintiff unit's taxes, continue the foreclosure action until all taxes due to it have been paid, and it shall not be necessary for any answering unit to file a separate foreclosure action or to proceed under G.S. 105-375 with respect to any such taxes.

If a taxing unit properly served as a party defendant in a foreclosure action fails to answer and file the certificate provided for in the preceding paragraph, all of its taxes shall be barred by the judgment of sale except to the extent that the purchase price at the foreclosure sale (after payment of costs and of the liens of all taxing units whose liens are properly alleged by complaint or answer and certificates) may be sufficient to pay such taxes. However, if a defendant taxing unit is plaintiff in another foreclosure action pending against the same property, or if it has begun a proceeding under G.S. 105-375, its answer may allege that fact in lieu of alleging its liens, and the court, in its discretion, may order consolidation of such actions or such other disposition thereof (and such disposition of the costs therein) as it may deem advisable. Any such order may be made by the clerk of the superior ~~court~~ court, subject to appeal ~~in the same manner as appeals are taken from other orders of the clerk.~~ as provided in G.S. 1-301.1."

Section 15. G.S. 105-374(k) reads as rewritten:

"(k) Judgment of Sale. -- Any judgment in favor of the plaintiff or any defendant taxing unit in an action brought under this section shall order the sale of the real property or ~~so much thereof~~ as much as may be necessary for the satisfaction ~~of:~~ of all of the following:

(1) Taxes adjudged to be liens in favor of the plaintiff (other than taxes the amount of which has not been definitely determined) together with penalties, interest, and costs ~~thereon; and~~ thereon.

(2) Taxes adjudged to be liens in favor of other taxing units (other than taxes the amount of which has not yet been definitely determined) if those taxes have been alleged in answers filed by the other taxing units, together with penalties, interest, and costs thereon.

The judgment shall appoint a commissioner to conduct the sale and shall order that the property be sold in fee simple, free and clear of all interests, rights, claims, and liens whatever except that the sale shall be subject to taxes the amount of which cannot be definitely determined at the time of the judgment, taxes and special assessments of taxing units which are not parties to the action, and, in the discretion of the court, taxes alleged in other tax foreclosure actions or proceedings pending against the same real property.

In all cases in which no answer is filed within the time allowed by law, and in cases in which answers filed do not seek to prevent sale of said property, the clerk of the superior court may ~~render~~ enter the judgment, subject to appeal ~~in the same manner as appeals are taken from other judgments of the clerk.~~ as provided in G.S. 1-301.1."

Section 16. G.S. 105-374(p) reads as rewritten:

"§ *105-374. Foreclosure of tax lien by action in nature of action to foreclose a mortgage.*

(p) Judgment of Confirmation. -- At any time after the expiration of 10 days from the time the commissioner files his report, if no exception or increased bid has been filed, the commissioner may apply for judgment of confirmation, and in like manner he may apply for such a judgment after the court has passed upon exceptions filed, or after any necessary resales have been held and reported and 10 days have elapsed. The judgment of confirmation shall direct the commissioner to deliver the deed upon payment of the purchase price. This judgment may be ~~rendered~~ entered by the clerk of superior court subject to appeal ~~in the same manner as appeals are taken from other judgments of the clerk.~~ as provided in G.S. 1-301.1."

Section 17. G.S. 156-29 reads as rewritten:

"§ *156-29. Report filed; appeal and jury trial.*

A report signed by two of the persons appointed as viewers shall be entered by the clerk as the report of the ~~viewers, and from the report any~~ viewers. Any landowner affected ~~thereby~~ by the report, and the person, firm, or corporation digging or cutting ~~such drainway shall have~~ the drainway, has the right of appeal and the right to have any issue arising upon the report tried by a jury, provided exceptions shall be filed to the report within 20 days after the filing of the report with the clerk, in which exceptions so filed may be a demand for a jury trial. If a jury trial ~~be~~ is demanded, the clerk shall transfer the proceedings to the civil-issue ~~docket~~ docket, and it shall be heard as other civil actions. If no jury trial ~~be~~ is demanded, the clerk shall hear the parties upon the exceptions filed, and appeal may be had as in special ~~proceedings,~~ proceedings except as modified by this section, but no jury trial ~~shall~~ may be had unless demanded as ~~herein provided for.~~ provided in this section."

Section 18. G.S. 156-30 reads as rewritten:

"§ *156-30. Confirmation of report.*

~~Unless an appeal shall be taken by any person affected by the report, or by the person, firm, or corporation cutting or digging the drainway, and a jury trial demanded within 20 days after the report shall be filed with the clerk, in all of which appeals exceptions shall be filed, the clerk of the superior court shall confirm the report of the jury; if exceptions shall be filed and no demand for a jury trial shall be made, the clerk shall hear the exceptions as in other cases of special proceedings, and judgment entered accordingly. If the report of the viewers be confirmed by the clerk because no exceptions or demand for a jury trial were filed within 20 days, the judgment of confirmation shall be the judgment of the court, and any judgment~~

~~herein entered against the person, firm, or corporation cutting or digging the drainway shall be a judgment against the person, firm, or corporation and the surety on its bond given as hereinabove provided.~~ Unless an appeal is taken, the clerk of superior court shall confirm the report of the viewers. If exceptions are filed and no jury trial is demanded, the clerk shall hear the exceptions and enter judgment as in other special proceedings. If the report is confirmed by the clerk because no exceptions or demand for a jury trial is filed, the judgment of confirmation is the judgment of the court. Any judgment entered against the person, firm, or corporation cutting or digging the drainway is a judgment against the person, firm, or corporation and against the surety on the bond required by G.S. 156-26."

Section 19. G.S. 156-55 reads as rewritten:

"§ *156-55. Venue; special proceedings.*

When the lands proposed to be drained and created into a drainage district are located in two or more counties, the clerk of the superior court of either county ~~shall have and exercise the jurisdiction herein conferred,~~ has the jurisdiction conferred by this Subchapter. ~~and the venue shall be~~ Venue is in that county in which the petition is first filed. The law and the rules regulating special proceedings ~~shall be applicable~~ apply in ~~this~~ the proceeding, ~~so far as may be practicable;~~ except as modified by this Subchapter. ~~and the~~ The proceedings ~~hereunder~~ may be ex parte or adversary."

Section 20. G.S. 156-75 reads as rewritten:

"§ *156-75. Appeal from final hearing.*

Any landowner, party ~~petitioner~~ petitioner, or the drainage district may, within 10 days after the ~~ruling or adjudication~~ entry of an order or judgment by the clerk upon the report of the board of viewers, appeal to the superior court in session time or in chambers. ~~Such appeal shall be taken and prosecuted~~ The procedures for taking appeal are as provided in ~~special proceedings.~~ Article 27A of Chapter 1 of the General Statutes, except as provided otherwise by this Subchapter. ~~Such appeal shall be based and heard only upon the exceptions filed thereto in writing by the appealing party, either as to issues of law or fact, and no additional exceptions shall be considered by the court upon the hearing of the appeal.~~ In ~~any~~ an appeal to the superior court ~~in session or in chamber~~ taken under this section or any other section or provision of the drainage laws of the State, general or local, the ~~same shall have~~ appeal has precedence in consideration and trial by the court. If other issues also have precedence in the superior court under existing law, the court, in its discretion, determines the order in which ~~the same shall be heard shall be determined by the court in the exercise of a sound discretion.~~ they are heard."

Section 21. G.S. 156-93.2(10) reads as rewritten:

"(10) Any landowner, party ~~petitioner~~ petitioner, or the drainage district may, within 10 days after the ~~ruling or adjudication~~ entry of the order or judgment by the clerk upon the report of the board of viewers, appeal to the superior court in session time or in chambers. ~~Such~~

~~appeal shall be taken and prosecuted as provided in~~ The procedures for taking appeal ~~in special proceedings.~~ under Article 27A of Chapter 1 of the General Statutes apply, except as provided otherwise by this Subchapter. ~~Such appeal shall be based and heard only upon the exceptions filed thereto in writing by the appealing party, either as to issues of law or fact, and no additional exceptions shall be considered by the court upon the hearing of the appeal.~~ All of the terms and provisions of G.S. 156-75 ~~shall~~ apply to the appeal."

Section 22. G.S. 156-93.3(15) reads as rewritten:

"(15) Any landowner, party ~~petitioner~~ petitioner, or the drainage district may, within 10 days after the ~~ruling or adjudication~~ entry of an order or judgment by the clerk upon the report of the board of viewers, appeal to the superior court in session time or in chambers. ~~Such appeal shall be taken and prosecuted as provided~~ The procedures for taking appeal ~~in special proceedings.~~ under Article 27A of Chapter 1 of the General Statutes apply, except as provided otherwise by this Subchapter. ~~Such appeal shall be based and heard only upon the exceptions filed thereto in writing by the appealing party, either as to issues of law or fact, and no additional exceptions shall be considered by the court upon the hearing of the appeal.~~ All of the terms and provisions of G.S. 156-75 ~~shall~~ apply to the appeal."

PART III. EFFECTIVE DATE

Section 23. This act becomes effective January 1, 2000, and applies to all orders or judgments subject to this act that are entered on or after that date.

In the General Assembly read three times and ratified this the 16th day of June, 1999.

Became law upon approval of the Governor at 11:23 a.m. on the 25th day of June, 1999.

S.B. 622 **SESSION LAW 1999-217**

AN ACT TO IMPOSE ADDITIONAL FEES AND COSTS AND TO INCREASE EXISTING FEES COLLECTED UNDER THE NURSING HOME ADMINISTRATORS BOARD ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-280 reads as rewritten:

"*§ 90-280. Fees; display of license; duplicate license; inactive list.*

(a) Each applicant for an examination administered by the Board and each applicant for an administrator-in-training program shall pay a processing fee set by the Board not to exceed ~~two hundred dollars~~

~~($200.00).~~ one hundred dollars ($100.00) plus the actual cost of the exam.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the Board not to exceed five hundred dollars ($500.00). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the Board not to exceed five hundred dollars ($500.00).

(c) Each person licensed as a nursing home administrator shall display his license certificate, along with the current certificate of renewal, in a conspicuous place in his place of employment.

(d) Any person licensed as a nursing home administrator may receive a duplicate license by payment of a fee set by the Board not to exceed twenty-five dollars ($25.00).

(e) Any person licensed as a nursing home administrator who is not acting, serving, or holding himself out to be a nursing home administrator may have his name placed on an inactive list for such period of time not to exceed ~~five~~ four years upon payment of a fee set by the Board not to exceed ~~twenty-five dollars ($25.00).~~ fifty dollars ($50.00) per year. Each year during that four-year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year.

(f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay a fee in an amount set by the Board not to exceed ~~one~~ two hundred dollars ~~($100.00).~~ ($200.00). If the Board renews the temporary license, no further fee shall be required.

(g) The Board may set fees not to exceed two hundred and fifty dollars ($250.00) for conducting and administering initial training and continuing education courses, and may set a fee not to exceed one hundred dollars ($100.00) for certifying a course submitted for review by another individual or agency wishing to offer such ~~courses.~~ courses or may set an annual fee not to exceed two thousand dollars ($2,000) for certifying a course provider in lieu of certifying each course offered by the provider."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 16th day of June 1999.

Became law upon approval of the Governor at 11:24 a.m. on the 25th day of June, 1999.

S.B. 1140 **SESSION LAW 1999-218**

AN ACT TO BAN NEW OR REPLACEMENT BILLBOARDS ON A PORTION OF U.S. HIGHWAY 52 AND NORTH CAROLINA HIGHWAY 752 IN SURRY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 559 of the 1993 Session Laws reads as rewritten:

"Section 1. No new or replacement outdoor advertising, as defined in G.S. 136-128(3), that is visible and intended to be read from the right-of-way of the portion of North Carolina

H.B. 306 **SESSION LAW 1999-219**

AN ACT TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO CONDUCT HEARINGS AND ADOPT CERTAIN RULES RELATED TO THE BEACH AND FAIR PLANS, TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO APPROVE ADDITIONAL BEDS FOR CONTINUING CARE RETIREMENT FACILITIES UNDER CERTAIN CIRCUMSTANCES, TO REVISE THE LAW PROHIBITING DISCRIMINATION IN THE TREATMENT OF HANDICAPPED AND DISABLED PERSONS, TO GOVERN MANAGED CARE WITH REGARD TO WORKERS' COMPENSATION, TO EXEMPT COMMERCIAL AIRCRAFT INSURANCE FROM STATE REGULATION, TO REQUIRE ADDITIONAL INFORMATION FROM SURPLUS LINES LICENSEES, TO CLARIFY WHICH SECTIONS OF THE GENERAL STATUTES APPLY TO SURPLUS LINES INSURANCE, TO AUTHORIZE THE SECRETARY OF REVENUE TO PROVIDE THE NORTH CAROLINA SELF-INSURANCE GUARANTY ASSOCIATION WITH INFORMATION ON SELF-INSURERS' PREMIUMS, TO REPEAL THE REQUIREMENT FOR A BIENNIAL REPORT FROM THE DEPARTMENT OF INSURANCE, TO REPEAL THE AGENCY BUSINESS CESSATION LAW, TO AUTHORIZE THE COMMISSIONER TO ADOPT RULES RECOGNIZING NEW ANNUITY MORTALITY TABLES, AND TO CLARIFY THAT MECHANICAL BREAKDOWN AND RELATED INSURANCE ARE NOT UNDER THE JURISDICTION OF THE RATE BUREAU.

The General Assembly of North Carolina enacts:

PART I. HEARINGS AND FAIR AND BEACH PLANS APPEALS.

Section 1.1. G.S. 58-2-50 reads as rewritten:

"*§ 58-2-50. ~~Examinations~~ Examinations, hearings, and investigations.*

All ~~examinations~~ examinations, hearings, and investigations provided for by this Chapter may be conducted by the Commissioner personally or by one or more deputies, investigators, actuaries, examiners or employees designated for the purpose. If the Commissioner or any investigator appointed to conduct the investigations is of the opinion that there is evidence to charge any person or persons with a criminal violation of any provision of this Chapter, the Commissioner may arrest with warrant or cause the person or persons to be arrested. All hearings shall, unless otherwise specially provided, be held in accordance with this Article and Article 3A of Chapter 150B of the General Statutes and at a time and place designated in a written notice given by the Commissioner to the person

cited to appear. The notice shall state the subject of inquiry and the specific charges, if any."

Section 1.2. G.S. 58-45-50 reads as rewritten:

"*§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from Commissioner to superior court.*

Any person or any insurer who may be aggrieved by an act, ruling or decision of the Association other than an act, ruling or decision relating to the cause or amount of a claimed loss, may, within 30 days after ~~such ruling~~ the ruling, appeal to the Commissioner. Any hearings held by the Commissioner ~~pursuant to such an~~ under the appeal shall be in accordance with ~~the procedure set forth in G.S. 58-2-50;~~ rules adopted by the Commissioner: Provided, however, the Commissioner is authorized to appoint a member of ~~his~~ the Commissioner's staff as deputy commissioner for the purpose of hearing ~~such~~ those appeals and a ruling based upon ~~such~~ the hearing shall have the same effect as if heard by the Commissioner. All persons or insureds aggrieved by any order or decision of the Commissioner may appeal as is provided ~~by the provisions of~~ in G.S. 58-2-75.

No later than ~~20~~ 10 days before each hearing, the appellant shall file with the Commissioner or ~~his~~ the Commissioner's designated hearing officer and shall serve on the appellee a written statement of ~~his~~ the appellant's case and any evidence ~~he~~ that the appellant intends to offer at the hearing. No later than five days before ~~such~~ the hearing, the appellee shall file with the Commissioner or ~~his~~ the designated hearing officer and shall serve on the appellant a written statement of ~~his~~ the appellee's case and any evidence ~~he~~ that the appellee intends to offer at the hearing. Each ~~such~~ hearing shall be recorded and may be transcribed. ~~The~~ If the matter is between an insurer and the Association, the cost of ~~such~~ the recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. If the matter is between an insured and the Association, the cost of transcribing shall be borne equally by the appellant and appellee; provided that the Commissioner may order the Association to pay recording or transcribing costs for which the insured is financially unable to pay. Each party shall, on a date determined by the Commissioner or ~~his~~ the designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or ~~his~~ the designated hearing officer and serve on the other party, a proposed order. The Commissioner or ~~his~~ the designated hearing officer shall then issue an order."

Section 1.3. G.S. 58-46-30 reads as rewritten:

"*§ 58-46-30. Appeals; judicial review.*

The association shall provide reasonable means, to be approved by the Commissioner, whereby any person or insurer affected by any act or decision of the administrators of the Plan or underwriting association, other than an act or decision relating to the cause or

amount of a claimed loss, may be heard in person or by an authorized representative, before the governing board of the association or a designated committee. Any person or insurer aggrieved by any decision of the governing board or designated committee, may be appealed to the Commissioner within 30 days ~~from~~ after the date of ~~such~~ the ruling or decision. The Commissioner, after a hearing held ~~pursuant to the procedure set forth in G.S. 58-2-50,~~ under rules adopted by the Commissioner, shall issue an order approving or disapproving the act or decision with respect to the matter ~~which~~ that is the subject of appeal. The Commissioner ~~is authorized to~~ may appoint a member of ~~his~~ the Commissioner's staff as deputy commissioner for the purpose of hearing ~~such~~ the appeals and a ruling based on ~~such~~ the hearing ~~shall have~~ has the same effect as if heard by the ~~Commissioner personally.~~ Commissioner. All persons or insurers or their representatives aggrieved by any order or decision of the Commissioner may appeal as provided ~~by the provisions of~~ in G.S. 58-2-75.

No later than ~~20~~ 10 days before each hearing, the appellant shall file with the Commissioner or ~~his~~ the designated hearing officer and shall serve on the appellee a written statement of ~~his~~ the appellant's case and any evidence ~~he~~ that the appellant intends to offer at the hearing. No later than five days before ~~such~~ the hearing, the appellee shall file with the Commissioner or ~~his~~ the designated hearing officer and shall serve on the appellant a written statement of ~~his~~ the appellee's case and any evidence ~~he~~ that the appellee intends to offer at the hearing. Each ~~such~~ hearing shall be recorded and may be transcribed. ~~The~~ If the matter is between an insurer and the Association, the cost of ~~such~~ the recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. If the matter is between an insured and the Association, the cost of transcribing shall be borne equally by the appellant and appellee; provided that the Commissioner may order the Association to pay recording or transcribing costs for which the insured is financially unable to pay. Each party shall, on a date determined by the Commissioner or ~~his~~ the designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or ~~his~~ the designated hearing officer and serve on the other party, a proposed order. The Commissioner or ~~his~~ the designated hearing officer shall then issue an order."

PART II. CONTINUING CARE RETIREMENT RECEIVERSHIPS.

Section 2. Article 64 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-64-46. Receiverships; exception for facility beds.*

When the Commissioner has been appointed as a receiver under Article 30 of this Chapter for a provider or facility subject to this Article, the Department of Health and Human Services may,

notwithstanding any other provision of law, accept and approve the addition of adult care home beds for that facility if it appears to the court, upon petition of the Commissioner or the provider, or on the court's own motion, that (i) the best interests of the facility or (ii) the welfare of persons who have previously contracted with the provider or may contract with the facility, may be best served by the addition of adult care home beds."

PART III. HANDICAPPED PERSONS.

Section 3.1. G.S. 168-10 reads as rewritten:

"§ *168-10. Eliminate discrimination in treatment of handicapped and disabled.*

Each handicapped person shall have the same consideration as any other person for individual accident and health insurance coverage, and no insurer, service corporation, multiple employer welfare arrangement, or health maintenance organization subject to Chapter 58 of the General Statutes solely on the basis of ~~such~~ the person's handicap, shall deny such coverage or benefits. The availability of ~~such insurance~~ coverage or benefits shall not be denied solely ~~due to~~ because of the ~~handicap, provided, however, that no such insurer shall be prohibited from excluding by waiver or otherwise, any pre-existing conditions from such coverage, and further provided that~~ handicap; however, any such insurer may charge the appropriate premiums or fees for the risk insured on the same basis and conditions as insurance issued to other ~~persons.~~ persons, in accordance with actuarial and underwriting principles and other coverage provisions prescribed in Chapter 58 of the General Statutes. ~~Nothing contained herein or in any other statute shall restrict or preclude any insurer governed by Chapter 58 of the General Statutes from setting and charging a premium or fee based upon the class or classes of risks and on sound actuarial and underwriting principles as determined by such insurer, or from applying its regular underwriting standards applicable to all classes of risks. The provisions of this section shall apply to both corporations governed by Chapter 58 of the General Statutes.~~ No insurer, service corporation, multiple employer welfare arrangement, or health maintenance organization subject to Chapter 58 of the General Statutes shall be prohibited from excluding by waiver or otherwise, any preexisting conditions from coverage as prescribed in G.S. 58-51-15(a)(2)b."

Section 3.2. G.S. 168-22(b) reads as rewritten:

"(b) A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by political subdivisions or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and ~~improvements, and for purposes of classification for insurance.~~ improvements."

PART IV. WORKERS' COMPENSATION MANAGED CARE.

Section 4.1. G.S. 58-50-65(a) reads as rewritten:

"(a) Nothing in Articles 50 through 55 of this Chapter ~~shall apply~~ applies to or ~~affect~~ affects any policy of liability or workers' compensation insurance, except that the provisions of ~~G.S. 58-50-50 and subsections (b) and (c) of G.S. 58-50-55~~ G.S. 58-50-56(g) and (h) ~~shall~~ apply to policies of workers' compensation ~~insurance.~~ insurance and to individual and group self-funded workers' compensation insurance plans. If there is any conflict between managed care provisions of this Chapter and managed care provisions of Chapter 97 of the General Statutes with respect to workers' compensation insurance, the provisions of Chapter 97 govern."

Section 4.2. G.S. 97-2(21) reads as rewritten:

"(21) Managed care organization. -- The term 'managed care organization' means a preferred provider organization or a health maintenance organization regulated under Chapter 58 of the General Statutes. 'Managed care organization' also means a preferred provider benefit plan of an insurance company, hospital, or medical service corporation in which utilization review or quality management programs are used to manage the provision of health care services and benefits under this Chapter."

PART V. COMMERCIAL AIRCRAFT INSURANCE.

Section 5.1. G.S. 58-7-15(19) reads as rewritten:

"(19) 'Motor vehicle ~~and~~ or aircraft insurance,' meaning insurance against loss of or damage resulting from any cause to motor vehicles or aircraft and their equipment, and against legal liability of the insured for loss or damage to another's property resulting from the ownership, maintenance or use of motor vehicles or aircraft and against loss, damage or expense incident to a claim of such liability. This subdivision does not apply to commercial aircraft as defined in G.S. 58-1-5."

Section 5.2. G.S. 58-41-10(a) reads as rewritten:

"(a) Except as otherwise provided, this Article applies to all kinds of insurance authorized by G.S. 58-7-15(4) through (14) and G.S. 58-7-15(18) through (22), and to all insurance companies licensed by the Commissioner to write those kinds of insurance. This Article does not apply to insurance written under Articles 21, 36, 37, 45 or 46 of this Chapter; insurance written for residential risks in conjunction with insurance written under Article 36 of this Chapter; to marine insurance as defined in G.S. 58-40-15(3); to personal inland marine insurance; to ~~aviation~~ commercial aircraft insurance; to policies issued in this State covering risks with multistate locations, except with respect to coverages applicable to locations within this State; to any town or county farmers mutual fire insurance association restricting its operations to not more than six adjacent counties in this State; nor to domestic insurance companies, associations, orders, or fraternal benefit societies doing business in this State on the assessment plan."

Section 5.3. G.S. 58-21-10(8) reads as rewritten:

"(8) 'Surplus lines insurance' means any insurance in this State of risks resident, located, or to be performed in this State, permitted to be placed through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance, other than reinsurance, ~~aviation~~ commercial aircraft insurance, wet marine and transportation insurance, insurance independently procured pursuant to G.S. 58-28-5, life and accident or health insurance, and annuities."

Section 5.4. G.S. 58-28-5(a) reads as rewritten:

"(a) Except as ~~hereinafter provided,~~ otherwise provided in this section, it ~~shall be~~ is unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this State as set forth in G.S. 58-28-10, without a ~~certificate of authority~~ license issued by the Commissioner. This section ~~shall~~ does not apply to the following acts or transactions:

(1) The procuring of a policy of insurance upon a risk within this State where the applicant is unable to procure coverage in the open market with admitted companies and is otherwise in compliance with Article 21 of this ~~Chapter;~~ Chapter.

(2) Contracts of reinsurance; but not including assumption reinsurance transactions, whereby the reinsuring company succeeds to all of the liabilities of and supplants the ceding company on the insurance contracts that are the subject of the transaction, unless prior approval has been obtained from the ~~Commissioner;~~ Commissioner.

(3) Transactions in this State involving a policy lawfully solicited, written and delivered outside of this State covering only subjects of insurance not resident, located or expressly to be performed in this State at the time of issuance, and which transactions are subsequent to the issuance of such ~~policy;~~ policy.

(4) Transactions in this State involving group life insurance, group annuities, or group, blanket, or franchise accident and health insurance where the master policy ~~of such~~ for the insurance was lawfully issued and delivered in a state ~~where~~ in which the company was authorized to transact ~~business;~~ business.

(5) Transactions in this State involving all policies of insurance issued ~~prior to~~ before July 1, ~~1967;~~ 1967.

(6) The procuring of contracts of insurance issued to a nuclear ~~insured;~~ insured. As used in this subdivision, 'nuclear insured' means a public utility procuring insurance against radioactive contamination and other risks of direct physical loss at a nuclear electric generating plant.

(7) Insurance independently procured, as specified in subsection (b) of this ~~section;~~ section.

(8) Insurance on vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine insurance policies, as distinguished from inland marine insurance policies.

(9) Transactions in this State involving commercial aircraft insurance, meaning insurance against (i) loss of or damage resulting from any cause to commercial aircraft and its equipment, (ii) legal liability of the insured for loss or damage to another person's property resulting from the ownership, maintenance, or use of commercial aircraft, and (iii) loss, damage, or expense incident to a liability claim."

Section 5.5. G.S. 58-1-5 reads as rewritten:

"§ *58-1-5. Definitions.*

In this Chapter, unless the context clearly requires otherwise:

(1) 'Alien company' means a company incorporated or organized under the laws of any jurisdiction outside of the United States.

(1a) 'Commercial aircraft' means aircraft used in domestic, flag, supplemental, commuter, or on-demand operations, as defined in Federal Aviation Administration Regulations, 14 C.F.R. § 119.3, as amended.

(2) 'Commissioner' means the Commissioner of Insurance of North Carolina or an authorized designee of the Commissioner.

(3) 'Company' or 'insurance company' or 'insurer' includes any corporation, association, partnership, society, order, individual or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations. 'Company' or 'insurance company' or 'insurer' does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina.

(4) 'Department' means the Department of Insurance of North Carolina.

(5) 'Domestic company' means a company incorporated or organized under the laws of this State.

(6) 'Foreign company' means a company incorporated or organized under the laws of the United States or of any jurisdiction within the United States other than this State.

(7) 'NAIC' means the National Association of Insurance Commissioners.

~~(8) "Nuclear insured" means a public utility procuring insurance against radioactive contamination and other~~

~~risks of direct physical loss at a nuclear electric generating plant.~~

(9) 'Person' means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert. 'Person' does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina.

(10) The singular form ~~shall include~~ includes the plural, and the masculine form ~~shall include~~ includes the feminine wherever appropriate."

PART VI. SURPLUS LINES FILINGS.

Section 6.1. G.S. 58-21-35 reads as rewritten:

"*§ 58-21-35. Duty to file ~~evidence of insurance and affidavits.~~ reports and retain affidavits.*

(a) Within 30 days after the placing of any surplus lines insurance, the surplus lines licensee shall ~~execute and~~ file with the ~~Commissioner:~~ Commissioner a

~~(1)~~ ~~A written~~ report in a format prescribed by the Commissioner regarding the insurance and including the following information:

~~a.~~(1) The name ~~and address~~ of the ~~insured;~~ insured.

~~b.~~(2) The identity of the insurer or ~~insurers;~~ insurers.

~~c.~~(3) A description of the subject and location of the ~~risk;~~ risk.

~~d.~~(4) The amount of premium charged for the ~~insurance; and~~ insurance.

~~e. Such other pertinent information as the Commissioner may reasonably require; and~~

(5) The amount of premium tax for the insurance.

(6) The policy period.

(7) The policy number.

(8) The name, address, telephone number, facsimile telephone number, and electronic mail address of the licensee, as applicable.

(9) Any other relevant information the Commissioner may reasonably require.

~~(2)~~ ~~An~~

(b) The licensee shall complete and retain an affidavit as to the efforts to place the coverage with admitted insurers and the results ~~thereof~~ of the efforts, in accordance with G.S. 58-21-15. The report and affidavit required by this section and the quarterly report required by G.S. 58-21-80 shall be completed on a standardized form or forms prescribed by the Commissioner and are not public records under G.S. 132-1 or G.S. 58-2-100."

Section 6.2. Article 21 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-21-2. Relationship to other insurance laws.*

Unless surplus lines insurance, surplus lines licensees, or nonadmitted insurers are specifically referenced in a particular section of this Chapter, no sections contained in Articles of this Chapter other than this Article apply to surplus lines insurance, surplus lines licensees, or nonadmitted insurers."

PART VII. WORKERS' COMPENSATION SELF-INSURANCE.

Section 7.1. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(16a) To provide the North Carolina Self-Insurance Guaranty Association information on self-insurers' premiums as determined under G.S. 105-228.5(b), (b1), and (c) for the purpose of collecting the assessments authorized in G.S. 97-133(a)."

Section 7.2. G.S. 97-133 reads as rewritten:

"§ *97-133. Powers and duties of the Association.*

(a) The Association shall:

~~(1) Obtain from each member self-insurer and file with the Commissioner individual reports specifying the aggregate benefits each member paid during the previous calendar year, and the annual standard premium that would have been paid by the individual member self-insurer during the previous calendar year, pursuant to manual rates established by the North Carolina Rate Bureau and using the experience rating procedure approved by the Commissioner for that member self-insurer or the annual premium collected by each group member self-insurer during the prior calendar year. These reports shall be due on or before July 15 following the close of that calendar year, except that this deadline may be extended by the Commissioner for up to three additional months for good cause shown.~~

(2) Assess each member of the Association as follows:

a. Each individual member self-insurer shall be annually assessed an amount equal to one-quarter of one percent (0.25%) of the annual ~~standard premium~~ gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c), that would have been paid by that member self-insurer for workers' compensation insurance during the prior calendar year; and payment to the Association shall be made no later than September 15 following the close of that calendar year. Where any such assessment is paid based in whole or in part upon estimates of annual ~~standard premium~~ gross premiums for the prior calendar year, there shall be made in the next year's assessment an adjustment of the assessment of such prior year based on actual audited annual ~~standard premium.~~ gross premiums. Each group member self-insurer shall be annually assessed an amount equal to one-quarter of one percent (0.25%) of the annual ~~premium collected by~~ gross premiums, as determined under G.S. 105-228.5(b),

(b1), and (c), of the group member self-insurer during the prior calendar year; and payment to the Association shall be made no later than September 15 following the close of that calendar year. Regardless of the size of the Fund, during its first 12 months of membership, no member self-insurer may discount or reduce this one-quarter of one percent (0.25%) assessment. Assessments paid by members pursuant to this subdivision shall be credited toward the tax paid by self-insurers under Article 8B of Chapter 105 of the General Statutes. For the purpose of making the assessments authorized by this subsection and subsections (c) and (d) of this section, the Secretary of Revenue shall provide to the Association the self-insurer premium and payroll information as determined under G.S. 105-228.5(b), (b1), and (c), and the Commissioner shall provide to the Association the group self-insurer premium information reported to the Commissioner under G.S. 58-47-75 and G.S. 58-2-165.

b. Each member self-insurer shall be notified of the assessment no later than 30 days before it is due.

c. If a self-insurer is a member of the Association for less than a full calendar year, the annual ~~standard premium~~ gross premiums shall be adjusted by that portion of the year the self-insurer is not a member of the Association.

d. If application of the contribution rates referenced in ~~sub-subdivisions a. and b.~~ sub-subdivision a. of this subdivision would produce an amount in excess of the five million dollar ($5,000,000) limits of the fund, an equitable proration may be made; provided that every self-insurer that becomes a member of the Association shall pay an initial assessment, in an amount established by the Board, regardless of the size of the fund at the time the member joins the Association.

(3) Administer a fund, to be known as the North Carolina Self-Insurance Guaranty Fund, which shall receive the assessments required in subdivision (2) of this subsection. Once the Fund reaches five million dollars ($5,000,000), no further assessments shall be made except initial assessments of new member self-insurers that are required to be made in subdivision (2)d. of this subsection. Assessments may be subsequently made only to maintain the Fund at a level of five million dollars ($5,000,000). In its discretion, the Board may determine that the assets of the Fund should be segregated, or, that a separate accounting shall be made, in order to identify that portion of the Fund which represents assessments paid by individual self-insurers and that portion of the Fund which represents assessments paid by group self-insurers. If the Board determines to segregate the Fund in this manner, the Association shall thereafter pay covered claims against individual member self-insurers from that

portion of the Fund which represents assessments against individual self-insurers and shall thereafter pay covered claims against group member self-insurers from that portion of the Fund which represents assessments against group self-insurers. The cost of administration incurred by the Association shall be borne by the Fund and the Association is authorized to secure reinsurance and bonds and to otherwise invest the assets of the Fund to effectuate the purpose of the Association, subject to the approval of the Commissioner. All earnings from investment of Fund assets shall be placed in or credited to the Fund.

The Association may purchase primary excess insurance from an insurer licensed by the Commissioner for the appropriate lines of authority to defray its exposure to loss occasioned by the default of one of its members. The terms of any excess insurance so purchased shall be limited to providing coverage of liabilities which exceed the Fund's assets after the payment by member self-insurers of the maximum post-insolvency assessment provided in subdivision (c)(1) of this section herein and the Association shall fund any such purchase by levying a special assessment on its members for this purpose or by application of any unencumbered earnings of the Fund or any other available funds. The Association may obtain from each member any information the Association may reasonably require in order to facilitate the securing of this primary excess insurance. The Association shall establish reasonable safeguards designed to insure that information so received is used only for this purpose and is not otherwise disclosed;

(4) Be obligated to the extent of covered claims occurring prior to the determination of the member self-insurer's insolvency, or occurring after such determination but prior to the obtaining by the self-insurer of workers' compensation insurance as otherwise required under this Chapter. The Association shall pay claims against a self-insurer that are not or have not been paid as a result of a determination of insolvency or the institution of bankruptcy or receivership proceedings that occurred prior to the effective date of this Article.

(5) After paying any claim resulting from a self-insurer's insolvency, be subrogated to the rights of the injured employee and dependents and be entitled to enforce liability against the self-insurer by any appropriate action brought in its own name or in the name of the injured employee and dependents;

(6) Assess the Fund in an amount necessary to pay only:

a. The obligations for the Association under this Article subsequent to an insolvency;

b. The expenses of handling covered claims subsequent to an insolvency;
c. The cost of examinations under G.S. 97-137; and
d. Other expenses authorized by this Article;

(7) Investigate claims brought against the Association and adjust, compromise, settle, and pay covered claims to the extent of the Association's obligation; and deny all other claims. The Association may review settlements to which the insolvent self-insurer was a party to determine the extent to which such settlements may be properly contested;

(8) Notify such persons as the Commissioner directs under G.S. 97-136;

(9) Handle claims through its employees or through one or more self-insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the Commissioner, but designation of a member self-insurer as a servicing facility may be declined by such self-insurer;

(10) Reimburse each servicing facility for obligations of the Association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the Association;

(11) Pay the other expenses of the Association authorized by this section; and

(12) Establish in the Plan a mechanism to calculate the assessments required by subdivisions ~~(1), (2),~~ (2) and (3) of this subsection by a simple and equitable means to convert from policy or fund years that are different from a calendar year.

(b) The Association may:

(1) Employ or retain such persons as are necessary to handle claims and perform other duties of the Association;

(2) Borrow funds necessary to effect the purposes of this Article in accord with the Plan;

(3) Sue or be sued;

(4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this section; and

(5) Perform such other acts as are necessary or proper to effectuate the purpose of this section.

(c) In the event that the assets of the Fund are not sufficient to pay the obligations of the Association, then the Association shall impose an additional assessment upon its members, which shall be known as a post-insolvency assessment which shall be imposed as follows:

(1) Each individual member self-insurer shall be assessed in an amount not to exceed two percent (2%) each year of the annual ~~standard premium~~ gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c), that would have been paid by that member self-insurer during the prior calendar year. The assessments of each individual member

self-insurer shall be in the proportion that the annual ~~standard premium~~ gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c), of the individual member self-insurer for the premium calendar year bears to the annual ~~standard premium~~ gross premiums of all individual member self-insurers for the preceding calendar year. For group member self-insurers, the assessment shall not exceed two percent (2%) each year the annual premium collected by that group member self-insurer during the prior calendar year. The assessments of each group member self-insurer shall be in the proportion that the annual ~~collected premium~~ gross premiums of the group member self-insurer for the premium calendar year bears to the annual ~~collected premium~~ gross premiums of all group member self-insurers for the preceding calendar year.

(2) Each member self-insurer shall be notified of the assessment no later than 30 days before it is due.

(3) The Association may exempt or defer, in whole or in part, the assessment of any member self-insurer, if the assessment would cause that member's financial statement to reflect liabilities in excess of assets.

(4) Delinquent assessments, except as provided in subdivision (3) of this subsection, shall bear interest at the rate to be established by the Board, but not to exceed the discount rate of the Federal Reserve Bank, Richmond, Virginia, on the due date of the assessment, plus four percent (4%) annually, computed from the due date of the assessment.

(5) The Association shall establish in the Plan a mechanism to calculate the assessments required by subdivision (1) of this subsection by a simple and equitable means to convert from policy or fund years that are different from a calendar year.

(d) No individual member self-insurer may be assessed in any calendar year an amount greater than two and one-half percent (2.5%) of the annual ~~standard premium~~ gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c), that would have been paid by that individual member self-insurer during the prior calendar year. No group member self-insurer may be assessed in any calendar year an amount greater than two and one-half percent (2.5%) of the annual ~~premium collected by~~ gross premiums of that group member self-insurer during the prior calendar year. If the maximum assessment does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. There shall be established in the Plan a mechanism to calculate the assessments required by this section by a simple and equitable means to convert from policy or fund years that are different from a calendar year."

PART VIII. REPEAL REQUIREMENT OF BIENNIAL REPORT.

Section 8. G.S. 58-2-120 reads as rewritten:

"*§ 58-2-120. Reports of Commissioner to the Governor and General Assembly.*

~~The Commissioner shall biennially submit to the General Assembly, through the Governor, a report of his official acts, including a summary of official rulings and regulations.~~ The Commissioner shall, from time to time, report to the Governor and the General Assembly any change or changes ~~which~~ that in ~~his~~ the Commissioner's opinion should be made in the laws relating to insurance and other subjects pertaining to ~~his department. On or before the first day of February of each year in which the General Assembly is in session he shall make to the Governor the recommendations called for in this section, to be transmitted to the General Assembly, with the last annual report of this Department, including receipts and disbursements.~~ the Department."

PART IX. REPEAL THE AGENCY BUSINESS CESSATION LAW.

Section 9. G.S. 58-41-35 is repealed.

Section 9.1. G.S. 58-41-40(a) reads as rewritten:

"(a) There is no liability on the part of and no cause of action for defamation or invasion of privacy arises against any insurer or its authorized representatives, agents, or employees, or any licensed insurance agent or broker, for any communication or statement made, unless shown to have been made in bad faith with malice, in any of the following:

(1) A written notice of cancellation under ~~G.S. 58-41-15,~~ G.S. 58-41-15 or of nonrenewal under G.S. 58-41-20, ~~or of cessation of business through an agency under G.S. 58-41-35,~~ specifying the reasons ~~therefor;~~ for cancellation.

(2) Communications providing information pertaining to ~~such cancellation, nonrenewal, or cessation of business through an agency;~~ the cancellation or nonrenewal.

(3) Evidence submitted at any court proceeding, administrative hearing, or informal inquiry in which ~~such cancellation, nonrenewal, or cessation of business through an agency~~ the cancellation or nonrenewal is an issue."

PART X. MORTALITY TABLE AND RESERVES UPDATE.

Section 10. G.S. 58-58-50(k) reads as rewritten:

"(k) The Commissioner shall adopt rules containing the minimum standards applicable to the valuation of health plans. The Commissioner may also adopt rules for the purpose of recognizing new annuity mortality tables for use in determining reserve liabilities for annuities and may adopt rules that govern minimum valuation standards for reserves of life insurance companies. In adopting these rules, the Commissioner may consider model laws and regulations promulgated and amended from time to time by the NAIC."

PART XI. MECHANICAL BREAKDOWN INSURANCE.

Section 11. G.S. 58-36-1(3) reads as rewritten:

"(3) The Bureau shall ~~have the duty and responsibility of promulgating and proposing~~ promulgate and propose rates for insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance; for insurance against theft of or physical damage to nonfleet private passenger ~~(nonfleet)~~ motor vehicles; for liability insurance for such motor vehicles, automobile medical payments insurance, uninsured and underinsured motorists coverage and other insurance coverages written in connection with the sale of such liability insurance; and, as provided in G.S. 58-36-100, for loss costs and residual market rate filings for workers' compensation and employers' liability insurance written in connection therewith. ~~The provisions of this~~ This subdivision ~~shall~~ does not apply to motor vehicles operated under certificates of authority from the Utilities Commission, the Interstate Commerce Commission, or their successor agencies, where insurance or other proof of financial responsibility is required by law or by regulations specifically applicable to such certificated vehicles. The Bureau shall have no jurisdiction over excess workers' compensation insurance for employers qualifying as self-insurers as provided in ~~G.S. 97-93;~~ Article 47 of this Chapter or Article 5 of Chapter 97 of the General Statutes; nor shall the Bureau's jurisdiction include farm buildings, farm dwellings and their appurtenant structures, farm personal property or other coverages written in connection with farm real or personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles, unless insured under policies covering nonfleet private passenger motor vehicles; mechanical breakdown insurance covering nonfleet private passenger motor vehicles and other incidental coverages written in connection with this insurance, including emergency road service assistance, trip interruption reimbursement, rental car reimbursement, and tire coverage; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance, except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium."

PART XII. EFFECT OF HEADINGS.

Section 12. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

PART XIII. EFFECTIVE DATE.

Section 13. Sections 5.1 through 5.5 of this act become effective October 1, 1999. Section 6.1 of this act becomes effective January 1, 2000. The remainder of this act is effective when it becomes law, but Sections 1.1, 1.2, and 1.3 of this act shall not apply to appeals pending on the date this act becomes law.

In the General Assembly read three times and ratified this the 16th day of June, 1999.

Became law upon approval of the Governor at 11:27 a.m. on the 25th day of June, 1999.

H.B. 486 **SESSION LAW 1999-220**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE PERMANENT REGISTRATION PLATES TO TRAILERS OWNED BY CHARITABLE ORGANIZATIONS AND USED ONLY IN PARADES AND TO CONSOLIDATE AND MODERNIZE THE STATUTES PROVIDING FOR PERMANENT REGISTRATION PLATES AND TO PROVIDE FOR SPECIAL REGISTRATION PLATES FOR INDIVIDUALS WHO ARE RETIRED FROM THE NORTH CAROLINA HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

Section 1. The caption of Part 6 of Article 3 of Chapter 20 of the General Statutes reads as rewritten:

"Part 6. Vehicles of Nonresidents of ~~State, etc.~~ State; Permanent Plates; Highway Patrol."

Section 2. G.S. 20-85 is amended by adding a new subsection to read:

"(c) The Division shall not collect a fee for a certificate of title for a motor vehicle entitled to a permanent registration plate under G.S. 20-84."

Section 3. G.S. 20-84 reads as rewritten:

"§ *20-84. ~~Vehicles owned by State, municipalities or orphanages, etc.; certain vehicles operated by the local chapters of American National Red Cross.~~ Permanent registration plates; State Highway Patrol.*

(a) General. -- The Division may issue a permanent registration plate for a motor vehicle owned by one of the persons authorized to have a permanent registration plate in this section. To obtain a permanent registration plate, a person must provide proof of ownership, provide proof of financial responsibility as required by G.S. 20-309, and pay a fee of six dollars ($6.00). A permanent plate issued under this section may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification. A permanent

registration plate issued under this section must be a distinctive color and bear the word "permanent". In addition, a permanent registration plate issued under subdivision (b)(1) of this section must have distinctive color and design that is readily distinguishable from all other permanent registration plates issued under this section.

(b) Permanent Registration Plates. -- The Division may issue permanent plates for the following motor vehicles:

(1) ~~The Division upon proper proof being filed with it that any motor vehicle for which registration is herein required is owned by the~~ A motor vehicle owned by the State or ~~any department thereof, or by any~~ one of its agencies.

(2) A motor vehicle owned by a county, ~~township,~~ city or ~~town, or by any~~ town.

(3) A motor vehicle owned by a board of ~~education, or by any~~ education.

(4) A motor vehicle owned by an ~~orphanage or civil~~ orphanage.

(5) A motor vehicle owned by the civil air ~~patrol, or incorporated~~ patrol.

(6) A motor vehicle owned by an incorporated emergency rescue ~~squad, or incorporated~~ squad.

(7) A motor vehicle owned by an incorporated REACT ("Radio Emergency Association of Citizen Teams") ~~Team, or for any~~ Team.

(8) A motor vehicle owned by a person and ~~involved~~ used exclusively in the support of a disaster relief ~~effort,~~ effort.

(9) A bus owned by a church and used exclusively for transporting individuals to Sunday school and church services.

(10) A motor vehicle owned by a rural fire department, agency, or association.

(11) A motor vehicle in the form of a mobile X-ray unit operated exclusively in this State for the purpose of diagnosis, treatment, and discovery of tuberculosis, and owned by the North Carolina Tuberculosis Association, Incorporated, or by a local chapter or association of the North Carolina Tuberculosis Association, Incorporated.

(12) A motor vehicle owned by a local chapter of the American National Red Cross and used for emergency or disaster work.

(13) A motor vehicle owned by a sheltered workshop recognized or approved by the Division of Vocational Rehabilitation Services.

(14) A motor vehicle owned by a nonprofit agency or organization that provides transportation for or operates programs subject to and approved in accordance with standards adopted by the Commission for Mental Health and Human Services.

(15) A bus or trackless trolley owned by a city and operated under a franchise authorizing the use of city streets. This subdivision does not apply to a bus or trackless trolley operated under a franchise authorizing an intercity operation.

(16) A trailer owned by a nationally chartered charitable organization and used exclusively for parade floats and for transporting vehicles and structures used only in parades.

~~shall collect six dollars ($6.00) for the registration of such motor vehicles, but shall not collect any fee for application for certificate of title in the name of the State or any department thereof, or by any county, township, city or town, or by any board of education or orphanage: Provided, that the term "owned" shall be construed to mean that such motor vehicle is the actual property of the State or some department thereof or of the county, township, city or town, or of the board of education, and no motor vehicle which is the property of any officer or employee of any department named herein shall be construed as being "owned" by such department. Provided, that the above exemptions from registration fees shall also apply to any church-owned bus used exclusively for transporting children and parents to Sunday school and church services and for no other purpose.~~

~~In lieu of the annual six dollars ($6.00) registration provided for in this section, the Division may for the license year 1950 and thereafter provide for a permanent registration of the vehicles described in this section and issue permanent registration plates for such vehicles.~~

~~The permanent registration plates issued pursuant to this paragraph shall be of a distinctive color and shall bear thereon the word "permanent." Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification. For the permanent registration and issuance of permanent registration plates provided for in this paragraph, the Division shall collect a fee of six dollars ($6.00) for each vehicle so registered and licensed.~~

~~The provisions of this section are hereby made applicable to vehicles owned by a rural fire department, agency or association.~~

~~The Division of Motor Vehicles shall issue to the North Carolina Tuberculosis Association, Incorporated, or any local chapter or association of said corporation, for a fee of six dollars ($6.00) for each plate a permanent registration plate which need not be thereafter renewed for each motor vehicle in the form of a mobile X-ray unit which is owned by said North Carolina Tuberculosis Association, Incorporated, or any local chapter or local association thereof and operated exclusively in this State for the purpose of diagnosis, treatment and discovery of tuberculosis. The initial six dollars ($6.00) fee required by this section and for this purpose shall be in full payment of the permanent registration plates issued for such vehicle operated as a mobile X-ray unit, and such plates need not thereafter be renewed, and such plates may be transferred as provided in G.S.~~

~~20-78 to replacement vehicles to be used for the purposes above described and for which the plates were originally issued.~~

~~The Division of Motor Vehicles shall issue to the American National Red Cross, upon application of any local chapter thereof and payment of a fee of six dollars ($6.00) for each plate, a permanent registration plate, which need not be thereafter renewed, for all disaster vans, bloodmobiles, handivans, and such sedans and station wagons as are used for emergency or disaster work, and operated by a local chapter in this State in the business of the American National Red Cross. Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used for the purposes above described and for which the plates were originally issued. In the event of transfer of ownership to any other person, firm or corporation, or transfer or reassignment of any vehicle bearing such registration plate to any chapter or association of the American National Red Cross in any other state, territory or country, the registration plate assigned to such vehicle shall be surrendered to the Division of Motor Vehicles.~~

(c) State Highway Patrol. -- In lieu of all other registration requirements, the Commissioner shall each year assign to the State Highway Patrol, upon payment of six dollars ($6.00) per registration plate, a sufficient number of regular registration plates of the same letter prefix and in numerical sequence beginning with number 100 to meet the requirements of the State Highway Patrol for use on Division vehicles assigned to the State Highway Patrol. The commander of the Patrol shall, when such plates are assigned, issue to each member of the State Highway Patrol a registration plate for use upon the Division vehicle assigned to ~~him~~ the member pursuant to G.S. 20-190 and assign a registration plate to each Division service vehicle operated by the Patrol. An index of such assignments of registration plates shall be kept at each State Highway Patrol radio station and a copy ~~thereof~~ of it shall be furnished to the registration division of the Division. Information as to the individual assignments of ~~such~~ the registration plates shall be made available to the public upon request to the same extent and in the same manner as regular registration information. The commander, when necessary, may reassign registration plates provided that ~~such~~ the reassignment shall ~~be made to~~ appear upon the index required ~~herein~~ under this subsection within 20 days after ~~such~~ the reassignment.

~~The Division of Motor Vehicles shall, upon appropriate certification of financial responsibility, issue to sheltered workshops recognized or approved by the Division of Vocational Rehabilitation Services and to public and nonprofit agencies or organizations which provide transportation for or operate programs subject to and approved in accordance with standards adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services upon application and payment of a fee of six dollars ($6.00) for each plate, a permanent registration plate for vehicles registered to and operated by such agencies. The initial six dollars ($6.00) fee required by this section~~

~~and for this purpose shall be in full payment of the permanent registration plate issued for such vehicle operated by a sheltered workshop and such plates need not thereafter be renewed, and such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used by the sheltered workshop designated on the registration card.~~

~~On and after January 1, 1972, permanent registration plates used on all vehicles owned by the State of North Carolina or a department thereof shall be of a distinctive color and design which shall be readily distinguishable from all other permanent registration plates issued pursuant to this section or G.S. 20-84.1. For the purpose of carrying out the intent of this paragraph, all vehicles owned by the State of North Carolina or a department thereof in operation as of October 1, 1971, and bearing a permanent registration shall be reregistered during the months of October, November and December, 1971, and upon reregistration, registration plates issued for such vehicles shall be of a distinctive color and design as provided for hereinabove.~~"

Section 3.1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(36a) Retired Highway Patrol. - Issuable to an individual who has retired from the North Carolina Highway Patrol. The plate shall bear the phrase 'SHP, Retired.' The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

Section 4. G.S. 20-84.1 is repealed.

Section 5. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 16th day of June, 1999.

Became law upon approval of the Governor at 11:29 a.m. on the 25th day of June, 1999.

S.B. 761 **SESSION LAW 1999-221**

AN ACT TO REFORM AND MODERNIZE THE ACKNOWLEDGMENT OF CORPORATE REAL PROPERTY INSTRUMENTS AND THE EXECUTION OF REAL PROPERTY INSTRUMENTS GENERALLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-41.01 reads as rewritten:

"§ *47-41.01. Corporate conveyances.*

(a) The following forms of probate for deeds and other conveyances executed by a corporation shall be deemed sufficient, but shall not exclude other forms of probate which would be deemed sufficient in law.

(b) If the deed or other instrument is executed by ~~the corporation's chairman, president, chief executive officer, a vice-president or an~~

~~assistant vice-president, treasurer, or chief financial officer signing the name of such corporation by him as such officer,~~ an official of the corporation, signing the name of the corporation by him in his official capacity, or any other agent authorized by resolution pursuant to G.S. 47-18.3(e), is sealed with its common or corporate seal, and is attested by another person who is ~~its secretary or assistant secretary, trust officer, assistant trust officer, associate trust officer, or, in case of a bank, its secretary, assistant secretary, cashier or assistant cashier,~~ an attesting official of the corporation, the following form of acknowledgment is sufficient:

.....

(State and county, or other description of place where acknowledgment is taken)

I,....., ...
.....,

(Name of officer taking acknowledgment) (Official title of officer taking acknowledgment)

certify that ..... personally came before me this day and acknowledged that he (or she) is .....

~~(Name of secretary, assistant secretary, trust officer, assistant trust officer, cashier or assistant cashier)~~
(Name of attesting official)

~~(Secretary, assistant secretary, trust officer, assistant trust officer, cashier or assistant cashier)~~
(Title of attesting official)

of....., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its.....,

(Name of corporation)

~~(Chairman, president, chief executive officer, vice-president, assistant vice-president, treasurer, or chief financial officer)~~ (Title of official)

sealed with its corporate seal, and attested by himself (or herself) as its.....

~~(Secretary, assistant secretary, trust officer, assistant trust officer, cashier or assistant cashier)~~
(Title of attesting official)

Witness my hand and official seal, this the..... day of .....,

(Month)

.....
(Year)

.....
(Signature of officer taking acknowledgment)
(Official seal, if officer taking
acknowledgment has one)
My commission expires.....
(Date of expiration of commission as
notary public)

(c) If the deed or other instrument is executed by an official of the corporation, signing the name of the corporation in his official capacity, or any other agent authorized by resolution pursuant to G.S. 47-18.3(e) the following form of acknowledgment is sufficient:

(State and county, or other
description of place where
acknowledgment is taken)
I,....., ...
.....,
(Name of officer taking (Official title of officer
acknowledgment) taking acknowledgment)
certify that ..... personally came before
(Name of official)
me this day and acknowledged that he (or she) is .....
(Title of official)

of....., a corporation, and that he/she, as

....., being authorized to do so, executed the
(Title of official)
foregoing on behalf of the corporation.

Witness my hand and official seal, this the..... day of
.....,
(Month)
.....
(Year)

.....
(Signature of officer taking acknowledgment)
(Official seal, if officer taking
acknowledgment has one)
My commission expires.....
(Date of expiration of commission as
notary public)

(d) For purposes of this section:

(1) The words "a corporation" following the blank for the name of the corporation may be omitted when the name of the corporation ends with the word "Corporation" or "Incorporated."

(2) The words "My commission expires" and the date of expiration of the notary public's commission may be omitted except when a notary public is the officer taking the acknowledgment. The fact that these words and this date may be located in a position on the form different from the position indicated in this subsection does not by itself invalidate the form.

(3) The ~~words~~ phrase "and official seal" and the seal itself may be omitted when the officer taking the acknowledgment has no seal or when such officer is the clerk, assistant clerk, or deputy clerk of the superior court of the county in which the deed or other instrument acknowledged is to be registered.

(4) The official of the corporation is the corporation's chairman, president, chief executive officer, a vice-president or an assistant vice-president, treasurer, or chief financial officer, or any other agent authorized by resolution pursuant to G.S. 47-18.3(e).

(5) The attesting official of the corporation is the corporation's secretary or assistant secretary, trust officer, assistant trust officer, associate trust officer, or in the case of a bank, its secretary, assistant secretary, cashier or assistant cashier.

(6) The phrase "sealed with its corporate seal" may be omitted if the seal of the corporation has not been affixed to the instrument being acknowledged."

Section 2. Article 1 of Chapter 39 of the General Statutes is amended by adding a new section to read:

"*§ 39-6.5. Elimination of seal.*

The seal of the signatory shall not be necessary to effect a valid conveyance of an interest in real property; provided, that this section shall not affect the requirement for affixing a seal of the officer taking an acknowledgment of the instrument."

Section 3. G.S. 1-47 reads as rewritten:

"*§ 1-47. Ten years.*

Within ten years an action --

(1) Upon a judgment or decree of any court of the United States, or of any state or territory thereof, from the date of its rendition. No such action may be brought more than once, or have the effect to continue the lien of the original judgment.

(1a) Upon a judgment rendered by a justice of the peace, from its date.

(2) Upon a sealed instrument or an instrument of conveyance of an interest in real property, against the principal thereto. Provided, however, that if action on ~~a sealed~~ an instrument is filed, the defendant or defendants in such action may file

a counterclaim arising out of the same transaction or transactions as are the subject of plaintiff's claim, although a shorter statute of limitations would otherwise apply to defendant's counterclaim. Such counterclaim may be filed against such parties as provided in G.S. 1A-1, Rules of Civil Procedure.

(3) For the foreclosure of a mortgage, or deed in trust for creditors with a power of sale, of real property, where the mortgagor or grantor has been in possession of the property, within ten years after the forfeiture of the mortgage, or after the power of sale became absolute, or within ten years after the last payment on the same.

(4) For the redemption of a mortgage, where the mortgagee has been in possession, or for a residuary interest under a deed in trust for creditors, where the trustee or those holding under him has been in possession, within ten years after the right of action accrued.

(5) Repealed by Session Laws 1959, c. 879, s. 2.

(6) a. Against any registered land surveyor as defined in G.S. 89C-3(9) or any person acting under his supervision and control for physical damage or for economic or monetary loss due to negligence or a deficiency in the performance of surveying or platting, within 10 years after the last act or omission giving rise to the cause of action.

b. For purposes of this subdivision, "surveying and platting" means boundary surveys, topographical surveys, surveys of property lines, and any other measurement or surveying of real property and the consequent graphic representation thereof.

c. The limitation prescribed by this subdivision shall apply to the exclusion of G.S. 1-15(c) and G.S. 1-52(16)."

Section 4. G.S. 47-18.3 reads as rewritten:

"*§ 47-18.3. Execution of corporate instruments; authority and proof.*

(a) Notwithstanding anything to the contrary in the bylaws or articles of incorporation, when it appears on the face of an instrument registered in the office of the register of deeds that the instrument was signed in the ordinary course of business on behalf of a domestic or foreign corporation by its chairman, president, chief executive officer, a vice-president or an assistant vice-president, treasurer, or chief financial officer, ~~and attested or countersigned by another person who is its secretary or an assistant secretary, (or, in the case of a bank, its secretary, assistant secretary, cashier, or assistant cashier),~~ such an instrument shall be as valid with respect to the rights of innocent third parties as if executed pursuant to authorization from the board of directors, unless the instrument reveals on its face a potential breach of fiduciary obligation. The subsection shall not apply to parties who had actual knowledge of lack of authority or of a breach of fiduciary obligation.

(b) Any instrument registered in the office of the register of deeds, appearing on its face to be executed by a corporation, foreign or domestic, and bearing a seal which purports to be the corporate seal, setting forth the name of the corporation engraved, lithographed, printed, stamped, impressed upon, or otherwise affixed to the instrument, is prima facie evidence that the seal is the duly adopted corporate seal of the corporation, that it has been affixed as such by a person duly authorized so to do, that the instrument was duly executed and signed by persons who were officers or agents of the corporation acting by authority duly given by the board of directors, and that any such instrument is the act of the corporation, and shall be admissible in evidence without further proof of execution.

(c) Nothing in this section shall be deemed to exclude the power of any corporate representatives to bind the corporation pursuant to express, implied, inherent or apparent authority, ratification, estoppel, or otherwise.

(d) Nothing in this section shall relieve corporate officers from liability to the corporation or from any other liability that they may have incurred from any violation of their actual authority.

(e) ~~The Home Owners Loan Corporation or any~~ Any ~~corporation, the majority of whose stock is owned by the United States government,~~ corporation may convey ~~lands or other~~ an interest in real property which is transferable by ~~deed~~ instrument which is duly executed by either an officer, manager, or agent of said ~~corporation, sealed with the common seal~~ corporation and has attached thereto a signed and attested ~~resolution, under seal,~~ resolution of the board of directors of said corporation authorizing the said officer, manager, or agent to execute, sign, seal, and attest deeds, conveyances, or other instruments. This section shall be deemed to have been complied with if an attested resolution is recorded separately in the office of the register of deeds in the county where the land lies, which said resolution shall be applicable to all deeds executed subsequently thereto and pursuant to its authority. Notwithstanding the foregoing, this section shall not require a signed and attested resolution of the board of directors of the corporation to be attached to an instrument or separately recorded in the case of an instrument duly executed by the corporation's chairman, president, chief executive officer, a vice-president, assistant vice-president, treasurer, or chief financial officer. All deeds, conveyances, or other instruments which have been heretofore or shall be hereafter so executed shall, if otherwise sufficient, be valid and shall have the effect to pass the title to the real or personal property described therein."

Section 5. Sections 1 and 4 of this act become effective October 1, 1999. The remaining sections of this act become effective when they become law and apply to instruments registered before, on, or after that date, except that they shall not apply to litigation pending on that date or to any instrument directly or indirectly involved in litigation pending on that date.

In the General Assembly read three times and ratified this the 17th day of June, 1999.

Became law upon approval of the Governor at 11:30 a.m. on the 25th day of June, 1999.

H.B. 190 **SESSION LAW 1999-222**

AN ACT TO AUTHORIZE CERTAIN FACILITIES TO SHARE PEER REVIEW INFORMATION WITH ACCREDITING ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-191(e) reads as rewritten:

"(e) For purposes of peer review functions only:

(1) A member of a duly appointed quality assurance committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement, or proceeding undertaken, made, or performed within the scope of the functions of the ~~committee; and~~ committee.

(2) The proceedings of a quality assurance committee, the records and materials it produces, and the material it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "'Public records' defined," and shall not be subject to discovery or introduction into evidence in any civil action against a facility or a provider of professional health services that results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee, and nothing herein shall prevent a provider of professional health services from using such otherwise available information, documents or records in connection with an administrative hearing or civil suit relating to the medical staff membership, clinical privileges or employment of the provider. A member of the committee or a person who testifies before the committee may be subpoenaed and be required to testify in a civil action as to events of which the person has knowledge independent of the peer review process, but cannot be asked about his testimony before the committee for impeachment or other purposes or about any opinions formed as a result of the committee hearings.

(3) Peer review information that is confidential and is not subject to discovery or use in civil actions under subdivision (2) of this subsection may be released to a professional standards review organization that contracts with an agency of this State or the federal government to perform any accreditation or certification function. Information released under this subdivision shall be limited to that which is reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released under this subdivision retains its confidentiality and is not subject to discovery or use in any civil actions as provided under subdivision (2) of this subsection, and the standards review organization shall keep the information confidential subject to that subdivision."

Section 2. G.S. 131E-95 reads as rewritten:

"§ *131E-95. Medical review committee.*

(a) A member of a duly appointed medical review committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement or proceeding undertaken, made, or performed within the scope of the functions of the committee.

(b) The proceedings of a medical review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, '"Public records" defined,' and shall not be subject to discovery or introduction into evidence in any civil action against a hospital or a provider of professional health services which results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action but cannot be asked about his testimony before the committee or any opinions formed as a result of the committee hearings.

(c) Information that is confidential and is not subject to discovery or use in civil actions under subsection (b) of this section may be released to a professional standards review organization that performs any accreditation or certification function. Information released under this subdivision shall be limited to that which is reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released under this subdivision retains its confidentiality and is not subject to

discovery or use in any civil actions as provided under subsection (b) of this section, and the standards review organization shall keep the information confidential subject to that subsection."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of June, 1999.

Became law upon approval of the Governor at 11:32 a.m. on the 25th day of June, 1999.

H.B. 494 **SESSION LAW 1999-223**

AN ACT TO ADOPT THE UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1.(a) G.S. 50A-1 through G.S. 50A-25 are designated as Article 1 of Chapter 50A of the General Statutes.

Section 1.(b) Article 1 of Chapter 50A of the General Statutes, as designated by this section, is repealed.

Section 2. The title of Chapter 50A of the General Statutes reads as rewritten:

"Chapter 50A.

"Uniform ~~Child-Custody Jurisdiction Act.~~ Child-Custody Jurisdiction and Enforcement Act."

Section 3. Chapter 50A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 2.

"Uniform Child-Custody Jurisdiction and Enforcement Act.

"Part 1. General Provisions.

"*§ 50A-101. Short title.*

This Article may be cited as the Uniform Child-Custody Jurisdiction and Enforcement Act.

"*§ 50A-102. Definitions.*

In this Article:

(1) 'Abandoned' means left without provision for reasonable and necessary care or supervision.

(2) 'Child' means an individual who has not attained 18 years of age.

(3) 'Child-custody determination' means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) 'Child-custody proceeding' means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for

divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Part 3 of this Article.

(5) 'Commencement' means the filing of the first pleading in a proceeding.

(6) 'Court' means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.

(7) 'Home state' means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(8) 'Initial determination' means the first child-custody determination concerning a particular child.

(9) 'Issuing court' means the court that makes a child-custody determination for which enforcement is sought under this Article.

(10) 'Issuing state' means the state in which a child-custody determination is made.

(11) 'Modification' means a child-custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(13) 'Person acting as a parent' means a person, other than a parent, who:

a. Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding; and

b. Has been awarded legal custody by a court or claims a right to legal custody under the law of this State.

(14) 'Physical custody' means the physical care and supervision of a child.

(15) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands,

or any territory or insular possession subject to the jurisdiction of the United States.

(16) 'Tribe' means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state.

(17) 'Warrant' means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

"§ *50A-103. Proceedings governed by other law.*

This Article does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

"§ *50A-104. Application to Indian tribes.*

(a) A child-custody proceeding that pertains to an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this Article to the extent that it is governed by the Indian Child Welfare Act.

(b) A court of this State shall treat a tribe as if it were a state of the United States for the purpose of applying Parts 1 and 2.

(c) A child-custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this Article must be recognized and enforced under Part 3.

"§ *50A-105. International application of Article.*

(a) A court of this State shall treat a foreign country as if it were a state of the United States for the purpose of applying Parts 1 and 2.

(b) Except as otherwise provided in subsection (c), a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this Article must be recognized and enforced under Part 3.

(c) A court of this State need not apply this Article if the child-custody law of a foreign country violates fundamental principles of human rights.

"§ *50A-106. Effect of child-custody determination.*

A child-custody determination made by a court of this State that had jurisdiction under this Article binds all persons who have been served in accordance with the laws of this State or notified in accordance with G.S. 50A-108 or who have submitted to the jurisdiction of the court and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

"§ *50A-107. Priority.*

If a question of existence or exercise of jurisdiction under this Article is raised in a child-custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

"§ *50A-108. Notice to persons outside State.*

(a) Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for service of process or by the law of the state in which

the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of this State or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

"*§ 50A-109. Appearance and limited immunity.*

(a) A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in this State for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(b) A person who is subject to personal jurisdiction in this State on a basis other than physical presence is not immune from service of process in this State. A party present in this State who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(c) The immunity granted by subsection (a) does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this Article committed by an individual while present in this State.

"*§ 50A-110. Communication between courts.*

(a) A court of this State may communicate with a court in another state concerning a proceeding arising under this Article.

(b) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, 'record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"*§ 50A-111. Taking testimony in another state.*

(a) In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may

prescribe the manner in which and the terms upon which the testimony is taken.

(b) A court of this State may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this State shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

"*§ 50A-112. Cooperation between courts; preservation of records.*

(a) A court of this State may request the appropriate court of another state to:

(1) Hold an evidentiary hearing;

(2) Order a person to produce or give evidence pursuant to procedures of that state;

(3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(4) Forward to the court of this State a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(5) Order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Upon request of a court of another state, a court of this State may hold a hearing or enter an order described in subsection (a).

(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be assessed against the parties according to the law of this State.

(d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

"Part 2. Jurisdiction.

"*§ 50A-201. Initial child-custody jurisdiction.*

(a) Except as otherwise provided in G.S. 50A-204, a court of this State has jurisdiction to make an initial child-custody determination only if:

(1) This State is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding, and the child is absent from this State but a parent or person acting as a parent continues to live in this State;

(2) A court of another state does not have jurisdiction under subdivision (1), or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under G.S. 50A-207 or G.S. 50A-208, and:

a. The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and

b. Substantial evidence is available in this State concerning the child's care, protection, training, and personal relationships;

(3) All courts having jurisdiction under subdivision (1) or (2) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under G.S. 50A-207 or G.S. 50A-208; or

(4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3).

(b) Subsection (a) is the exclusive jurisdictional basis for making a child-custody determination by a court of this State.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

"*§ 50A-202. Exclusive, continuing jurisdiction.*

(a) Except as otherwise provided in G.S. 50A-204, a court of this State which has made a child-custody determination consistent with G.S. 50A-201 or G.S. 50A-203 has exclusive, continuing jurisdiction over the determination until:

(1) A court of this State determines that neither the child, the child's parents, and any person acting as a parent do not have a significant connection with this State and that substantial evidence is no longer available in this State concerning the child's care, protection, training, and personal relationships; or

(2) A court of this State or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this State.

(b) A court of this State which has made a child-custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under G.S. 50A-201.

"*§ 50A-203. Jurisdiction to modify determination.*

Except as otherwise provided in G.S. 50A-204, a court of this State may not modify a child-custody determination made by a court of another state unless a court of this State has jurisdiction to make an initial determination under G.S. 50A-201(a)(1) or G.S. 50A-201(a)(2) and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under G.S. 50A-202 or that a court of this State would be a more convenient forum under G.S. 50A-207; or

(2) A court of this State or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

"*§ 50A-204. Temporary emergency jurisdiction.*

(a) A court of this State has temporary emergency jurisdiction if the child is present in this State and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child-custody determination that is entitled to be enforced under this Article and a child-custody proceeding has not been commenced in a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203, a child-custody determination made under this section becomes a final determination if it so provides, and this State becomes the home state of the child.

(c) If there is a previous child-custody determination that is entitled to be enforced under this Article, or a child-custody proceeding has been commenced in a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203, any order issued by a court of this State under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under G.S. 50A-201 through G.S. 50A-203. The order issued in this State remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A court of this State which has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203 shall immediately communicate with the other court. A court of this State which is exercising jurisdiction pursuant to G.S. 50A-201 through G.S. 50A-203, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

"*§ 50A-205. Notice; opportunity to be heard; joinder.*

(a) Before a child-custody determination is made under this Article, notice and an opportunity to be heard in accordance with the standards of G.S. 50A-108 must be given to all persons entitled to notice under the law of this State as in child-custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This Article does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this Article are governed by the law of this State as in child-custody proceedings between residents of this State.

"§ *50A-206. Simultaneous proceedings.*

(a) Except as otherwise provided in G.S. 50A-204, a court of this State may not exercise its jurisdiction under this Part if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this Article, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this State is a more convenient forum under G.S. 50A-207.

(b) Except as otherwise provided in G.S. 50A-204, a court of this State, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to G.S. 50A-209. If the court determines that a child-custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this Article, the court of this State shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this Article does not determine that the court of this State is a more appropriate forum, the court of this State shall dismiss the proceeding.

(c) In a proceeding to modify a child-custody determination, a court of this State shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court may:

(1) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(2) Enjoin the parties from continuing with the proceeding for enforcement; or

(3) Proceed with the modification under conditions it considers appropriate.

"§ *50A-207. Inconvenient forum.*

(a) A court of this State which has jurisdiction under this Article to make a child-custody determination may decline to exercise its

jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances, and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(b) Before determining whether it is an inconvenient forum, a court of this State shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(2) The length of time the child has resided outside this State;

(3) The distance between the court in this State and the court in the state that would assume jurisdiction;

(4) The relative financial circumstances of the parties;

(5) Any agreement of the parties as to which state should assume jurisdiction;

(6) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If a court of this State determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(d) A court of this State may decline to exercise its jurisdiction under this Article if a child-custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

"*§ 50A-208. Jurisdiction declined by reason of conduct.*

(a) Except as otherwise provided in G.S. 50A-204 or by other law of this State, if a court of this State has jurisdiction under this Article because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) A court of the state otherwise having jurisdiction under G.S. 50A-201 through G.S. 50A-203 determines that this State is a more appropriate forum under G.S. 50A-207; or

(3) No court of any other state would have jurisdiction under the criteria specified in G.S. 50A-201 through G.S. 50A-203.

(b) If a court of this State declines to exercise its jurisdiction pursuant to subsection (a), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under G.S. 50A-201 through G.S. 50A-203.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a), it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this State unless authorized by law other than this Article.

"§ *50A-209. Information to be submitted to court.*

(a) In a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

(1) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, the pleading or affidavit shall identify the court, the case number, and the date of the child-custody determination, if any;

(2) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, the pleading or affidavit shall identify the court, the case number, and the nature of the proceeding; and

(3) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(b) If the information required by subdivisions (a) is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in subdivisions (a)(1) through (3) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(d) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

"*§ 50A-210. Appearance of parties and child.*

(a) In a child-custody proceeding in this State, the court may order a party to the proceeding who is in this State to appear before the court in person with or without the child. The court may order any person who is in this State and who has physical custody or control of the child to appear in person with the child.

(b) If a party to a child-custody proceeding whose presence is desired by the court is outside this State, the court may order that a notice given pursuant to G.S. 50A-108 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) If a party to a child-custody proceeding who is outside this State is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

"Part 3. Enforcement.

"*§ 50A-301. Definitions.*

In this Part:

(1) 'Petitioner' means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child-custody determination.

(2) 'Respondent' means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child-custody determination.

"*§ 50A-302. Enforcement under Hague Convention.*

Under this Part, a court of this State may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child-custody determination.

"*§ 50A-303. Duty to enforce.*

(a) A court of this State shall recognize and enforce a child-custody determination of a court of another state if the latter court exercised

jurisdiction in substantial conformity with this Article or the determination was made under factual circumstances meeting the jurisdictional standards of this Article, and the determination has not been modified in accordance with this Article.

(b) A court of this State may utilize any remedy available under other law of this State to enforce a child-custody determination made by a court of another state. The remedies provided in this Part are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

"§ 50A-304. Temporary visitation.

(a) A court of this State which does not have jurisdiction to modify a child-custody determination may issue a temporary order enforcing:

(1) A visitation schedule made by a court of another state; or

(2) The visitation provisions of a child-custody determination of another state that does not provide for a specific visitation schedule.

(b) If a court of this State makes an order under subdivisions (a)(2) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Part 2. The order remains in effect until an order is obtained from the other court or the period expires.

"§ 50A-305. Registration of child-custody determination.

(a) A child-custody determination issued by a court of another state may be registered in this State, with or without a simultaneous request for enforcement, by sending to the appropriate court in this State:

(1) A letter or other document requesting registration;

(2) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(3) Except as otherwise provided in G.S. 50A-209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a), the registering court shall:

(1) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(2) Direct the petitioner to serve notice upon the persons named pursuant to subdivison (a)(3), including notice of their opportunity to contest the registration in accordance with this section.

(c) The notice required by subdivision (b)(2) must state that:

(1) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this State;

(2) A hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and

(3) Failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) The issuing court did not have jurisdiction under Part 2;

(2) The child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2; or

(3) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of G.S. 50A-108 in the proceedings before the court that issued the order for which registration is sought.

(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law, and the person requesting registration and all persons served must be notified of the confirmation.

(f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

"§ *50A-306. Enforcement of registered determination.*

(a) A court of this State may grant any relief normally available under the law of this State to enforce a registered child-custody determination made by a court of another state.

(b) A court of this State shall recognize and enforce, but may not modify, except in accordance with Part 2, a registered child-custody determination of a court of another state.

"§ *50A-307. Simultaneous proceedings.*

If a proceeding for enforcement under this Part is commenced in a court of this State and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Part 2, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

"§ *50A-308. Expedited enforcement of child-custody determination.*

(a) A petition under this Part must be verified. Certified copies of all orders sought to be enforced and of any order confirming

registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child-custody determination must state:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this Article and, if so, identify the court, the case number, and the nature of the proceeding;

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(4) The present physical address of a child and the respondent, if known;

(5) Whether relief in addition to the immediate physical custody of the child and attorneys' fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(6) If the child-custody determination has been registered and confirmed under G.S. 50A-305, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subsection (c) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under G.S. 50A-312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) The child-custody determination has not been registered and confirmed under G.S. 50A-305 and that:

a. The issuing court did not have jurisdiction under Part 2;

b. The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2;

c. The respondent was entitled to notice, but notice was not given in accordance with the standards of G.S. 50A-108 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child-custody determination for which enforcement is sought was registered and confirmed under G.S. 50A-304, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2.

"*§ 50A-309. Service of petition and order.*

Except as otherwise provided in G.S. 50A-311, the petition and order must be served, by any method authorized by the law of this State, upon respondent and any person who has physical custody of the child.

"*§ 50A-310. Hearing and order.*

(a) Unless the court issues a temporary emergency order pursuant to G.S. 50A-204 upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) The child-custody determination has not been registered and confirmed under G.S. 50A-305 and that:

a. The issuing court did not have jurisdiction under Part 2;

b. The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2; or

c. The respondent was entitled to notice, but notice was not given in accordance with the standards of G.S. 50A-108 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child-custody determination for which enforcement is sought was registered and confirmed under G.S. 50A-305 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2.

(b) The court shall award the fees, costs, and expenses authorized under G.S. 50A-312 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this Part.

"*§ 50A-311. Warrant to take physical custody of child.*

(a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for

the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this State.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this State, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by G.S. 50A-308(b).

(c) A warrant to take physical custody of a child must:

(1) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(2) Direct law enforcement officers to take physical custody of the child immediately; and

(3) Provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this State. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

"*§ 50A-312. Costs, fees, and expenses.*

(a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this Article.

"*§ 50A-313. Recognition and enforcement.*

A court of this State shall accord full faith and credit to an order issued by another state and consistent with this Article which enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2.

"*§ 50A-314. Appeals.*

An appeal may be taken from a final order in a proceeding under this Part in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order

under G.S. 50A-204, the enforcing court may not stay an order enforcing a child-custody determination pending appeal.

"§ *50A-315. Role of prosecutor or public official.*

(a) In a case arising under this Article or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or other appropriate public official may take any lawful action, including resort to a proceeding under this Part or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is:

(1) An existing child-custody determination;

(2) A request to do so from a court in a pending child-custody proceeding;

(3) A reasonable belief that a criminal statute has been violated; or

(4) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A prosecutor or appropriate public official acting under this section acts on behalf of the court and may not represent any party.

"§ *50A-316. Role of law enforcement.*

At the request of a prosecutor or other appropriate public official acting under G.S. 50A-315, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or appropriate public official with responsibilities under G.S. 50A-315.

"§ *50A-317. Costs and expenses.*

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers under G.S. 50A-315 or G.S. 50A-316."

Section 4. G.S. 1C-1702(1) reads as rewritten:

"(1) 'Foreign Judgment' means any judgment, decree, or order of a court of the United States or a court of any other state which is entitled to full faith and credit in this State, except a 'child support order,' as defined in G.S. 52C-1-101 (The Uniform Interstate Family Support Act), a 'custody decree,' as defined in ~~G.S. 50A-2(4) (The Uniform Child Custody Jurisdiction Act),~~ G.S. 50A-102 (The Uniform Child-Custody Jurisdiction and Enforcement Act), or a domestic violence protective order as provided in G.S. 50B-4(d)."

Section 5. G.S. 7B-1100(4), as enacted by Section 6 of S.L. 1998-202, reads as rewritten:

"(4) This Article shall not be used to circumvent the provisions of Chapter 50A of the General Statutes, the Uniform ~~Child Custody Jurisdiction Act.~~ Child-Custody Jurisdiction and Enforcement Act."

Section 6. G.S. 7B-1101, as enacted by Section 6 of S.L. 1998-202, reads as rewritten:

"§ *7B-1101. Jurisdiction.*

The court shall have exclusive original jurisdiction to hear and determine any petition relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the petition. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. The parent has the right to counsel and to appointed counsel in cases of indigency unless the parent waives the right. The fees of appointed counsel shall be borne by the Administrative Office of the Courts. In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

(1) Where it is alleged that a parent's rights should be terminated pursuant to G.S. 7B-1110(6); or

(2) Where the parent is under the age of 18 years.

The fees of the guardian ad litem shall be borne by the Administrative Office of the Courts when the court finds that the respondent is indigent. In other cases the fees of the court-appointed guardian ad litem shall be a proper charge against the respondent if the respondent does not secure private legal counsel. Provided, that before exercising jurisdiction under this Article, the court shall find that it would have jurisdiction to make a child-custody determination under the provisions of G.S. ~~50A-3.~~ 50A-201, 50A-203, or 50A-204. Provided, further, that the clerk of superior court shall have jurisdiction for adoptions under the provisions of G.S. 48-2-100 and Chapter 48 of the General Statutes generally."

Section 7. G.S. 7B-1104(7), as enacted by Section 6 of S.L. 1998-202, reads as rewritten:

"(7) That the petition has not been filed to circumvent the provisions of Article 2 of Chapter 50A of the General Statutes, the Uniform ~~Child Custody Jurisdiction Act.~~ Child-Custody Jurisdiction and Enforcement Act."

Section 8. G.S. 48-2-100(c) reads as rewritten:

"(c) The courts of this State shall not exercise jurisdiction under this Chapter if at the time the petition for adoption is filed, a court of any other state is exercising jurisdiction substantially in conformity with the ~~Uniform Child Custody Jurisdiction Act,~~ Uniform Child-Custody Jurisdiction and Enforcement Act, ~~G.S. 50A-1, et seq.~~ Article 2 of Chapter 50A of the General Statutes."

Section 9. G.S. 48-2-304(b)(4) reads as rewritten:

"(4) Any information required by the ~~Uniform Child Custody Jurisdiction Act,~~ Uniform Child-Custody Jurisdiction and Enforcement Act, ~~G.S. 50A-1, et seq.~~ Article 2 of Chapter 50A of the General Statutes, which is known to the petitioner;".

Section 10. G.S. 50-11.2 reads as rewritten:

"§ *50-11.2. Judgment provisions pertaining to care, custody, tuition and maintenance of minor children.*

Where the court has the requisite jurisdiction and upon proper pleadings and proper and due notice to all interested parties the judgment in a divorce action may contain such provisions respecting care, custody, tuition and maintenance of the minor children of the marriage as the court may adjudge; and from time to time such provisions may be modified upon due notice and hearing and a showing of a substantial change in condition; and if there be no minor children, the judgment may so state. The jurisdictional requirements of G.S. ~~50A-3~~ 50A-201, 50A-203, or 50A-204 shall apply in regard to a custody decree."

Section 11. G.S. 50-13.5(c)(2) reads as rewritten:

"(2) The courts of this State shall have jurisdiction to enter orders providing for the custody of a minor child under the provisions of G.S. ~~50A-3.~~ 50A-201, 50A-202, and 50A-204."

Section 12. G.S. 50-13.5(d)(1) reads as rewritten:

"(1) Service of process in civil actions for the custody of minor children shall be as in other civil actions. Motions for support of a minor child in a pending action may be made on 10 days notice to the other parties and compliance with G.S. 50-13.5(e). Motions for custody of a minor child in a pending action may be made on 10 days notice to the other parties and after compliance with G.S. ~~50A-4.~~ 50A-205."

Section 13. G.S. 50-13.7 reads as rewritten:

"§ *50-13.7. Modification of order for child support or custody.*

(a) An order of a court of this State for support of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested subject to the limitations of G.S. 50-13.10. Subject to the provisions of G.S. ~~50A-3,~~ 50A-201, 50A-202, and 50A-204, an order of a court of this State for custody of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested.

(b) When an order for support of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and upon a showing of changed circumstances, enter a new order for support which modifies or supersedes such order for support, subject to the limitations of G.S. 50-13.10. Subject to the provisions of G.S. ~~50A-3,~~ 50A-201, 50A-202, and 50A-204, when an order for custody of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and a showing of changed circumstances, enter a new order for custody which modifies or supersedes such order for custody."

Section 14. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the official comments to the

Uniform Child-Custody Jurisdiction and Enforcement Act as the Revisor deems appropriate.

Section 15. This act becomes effective October 1, 1999, and applies to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 17th day of June, 1999.

Became law upon approval of the Governor at 11:35 a.m. on the 25th day of June, 1999.

H.B. 755 **SESSION LAW 1999-224**

AN ACT TO AUTHORIZE CERTAIN MUNICIPALITIES TO CREATE SERVICE DISTRICTS TO FINANCE LIGHTING AT INTERSTATE HIGHWAY INTERCHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-536 is amended by adding a new subdivision to read:

"(3b) Lighting at interstate highway interchange ramps."

Section 2. This act applies only to towns that, at the time the district is created, have a population of between 2,000 and 2,500 and are located in a county that has a land area of more than 946 square miles according to the 1990 federal census.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of June, 1999.

Became law upon approval of the Governor at 11:25 a.m. on the 25th day of June, 1999.

H.B. 1192 **SESSION LAW 1999-225**

AN ACT TO PROVIDE FOR THE TRACING OF FIREARMS USED IN THE COMMISSION OF A CRIME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 114-10 reads as rewritten:

"*§ 114-10. Division of Criminal Statistics.*

The Attorney General shall set up in the Department of Justice a division to be designated as the Division of Criminal Statistics. There shall be assigned to this Division by the Attorney General duties as follows:

(1) To collect and correlate information in criminal law administration, including crimes committed, arrests made, dispositions on preliminary hearings, prosecutions, convictions, acquittals, punishment, appeals, together with the age, race, and sex of the offender, the necessary data to make a trace regarding all firearms seized, forfeited, found,

or otherwise coming into the possession of any State or local law enforcement agency of the State that are believed to have been used in the commission of a crime, and such other information concerning crime and criminals as may appear significant or helpful. To correlate such information with the operations of agencies and institutions charged with the supervision of offenders on probation, in penal and correctional institutions, on parole and pardon, so as to show the volume, variety and tendencies of crime and criminals and the workings of successive links in the machinery set up for the administration of the criminal law in connection with the arrests, trial, punishment, probation, prison parole and pardon of all criminals in North Carolina.

(2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the Division may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.

(3) To make scientific study, analysis and comparison from the information so collected and correlated with similar information gathered by federal agencies, and to provide the Governor and the General Assembly with the information so collected biennially, or more often if required by the Governor.

(4) To perform all the duties heretofore imposed by law upon the Attorney General with respect to criminal statistics.

(5) To perform such other duties as may be from time to time prescribed by the Attorney General.

(6) To promulgate rules and regulations for the administration of this Article."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of June, 1999.

Became law upon approval of the Governor at 11:38 a.m. on the 25th day of June, 1999.

H.B. 1193 **SESSION LAW 1999-226**

AN ACT AUTHORIZING NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS TO CONDUCT PHYSICAL EXAMINATIONS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"*§ 90-18.3. Physical examination by nurse practitioners and physician assistants.*

(a) Whenever a statute or State agency rule requires that a physical examination shall be conducted by a physician, the examination may be conducted and the form signed by a nurse practitioner or a physician's assistant, and a physician need not be present. Nothing in this section shall otherwise change the scope of practice of a nurse practitioner or a physician's assistant, as defined by G.S. 90-18.1 and G.S. 90-18.2, respectively.

(b) This section shall not apply to physical examinations conducted pursuant to G.S. 1A-1, Rule 35; G.S. 15B-12; G.S. 90-14; or any rules adopted by the North Carolina Boxing Commission requiring physical examinations unless those statutes or rules are amended to make the provisions of this section applicable."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 17th day of June, 1999.

Became law upon approval of the Governor at 11:40 a.m. on the 25th day of June, 1999.

H.B. 248 **SESSION LAW 1999-227**

AN ACT TO AMEND THE STATUTES CONCERNING PRECINCT BOUNDARIES AND TO PROVIDE THE RULES AND PROCEDURE FOR MUNICIPAL REDISTRICTING IN 2001.

The General Assembly of North Carolina enacts:

Section 1. Article 12A of Chapter 163 of the General Statutes reads as rewritten:

"ARTICLE 12A.

"Precinct Boundaries.

"*§ 163-132.1. Participation in 2000 Census Redistricting Data Program of the United States Bureau of the Census.*

(a) Purpose. -- The State of North Carolina shall participate in the 2000 Census Redistricting Data Program, conducted pursuant to P.L. 94-171, of the United States Bureau of the Census, including Phase I (Block Boundary Suggestion Program) and Phase II (concerning the designation of precincts on 2000 Census maps or databases), so that the State will receive 2000 Census data by voting precinct and be able

to revise districts at all levels without splitting precincts and in compliance with the United States and North Carolina Constitutions and the Voting Rights Act of 1965, as amended.

(b) Phase I (Block Boundary Suggestion Program). -- The State shall participate in the Block Boundary Suggestion Program of the United States Bureau of the Census so that the maps the Census Bureau will use in the 2000 Census will contain adequate features to permit reporting of Census data by precinct for use in the 2001 redistricting efforts. The Legislative Services Office shall send preliminary maps produced by the Census Bureau in preparation for the 2000 Census, as soon as practical after the maps are available, to the county boards of elections to determine which of their precincts have boundaries that are not coterminous with a physical feature, a current township boundary, or a current municipal boundary, as shown on those preliminary 2000 Census maps. The Legislative Services Office shall:

(1) Assist county boards of elections in identifying the precincts with boundaries not shown on the preliminary Census maps and in identifying physical features the county boards may wish to have available for future precinct boundaries;

(2) Place those boundaries and features on maps deemed appropriate by the State Board;

(3) Request the U.S. Census Bureau to hold for census block identification in the 2000 U.S. Census all physical features the county boards have identified as current or potential precinct boundaries; and

(4) Request the U.S. Census Bureau to hold for census block identification in the 2000 U.S. Census all other physical features already on 1990 Census maps.

(c) Phase II. -- The State shall participate in Phase II of the 2000 Census Redistricting Data Program so that, to the extent practical, the precinct boundaries of all North Carolina counties will appear on the 2000 Census maps or database. The State's effort shall be conducted as follows:

(1) By January 1, 1998, or as soon thereafter as they become available, the Legislative Services Office shall ~~send to the county boards of elections the Census Bureau's official block maps, on paper or electronically, to be used in the 2000 Census.~~ provide the county boards of elections with access, on paper or electronically, to the Census Bureau's maps for Phase II of the Census Redistricting Data Program.

(2) After receiving the maps, the county boards of elections shall designate their precinct lines along the ~~block boundary lines on the maps.~~ lines the Census Bureau indicates on the maps it will hold as block boundaries for the 2000 Census. Where necessary, the county boards of elections shall alter precincts, including any precincts approved under the provisions of G.S. 163-132.1A, 163-132.2, or 163-132.3 or designated by local act, to conform to lines the Census

Bureau indicates it will hold as Census block boundaries as shown on the official block maps to be used for the 2000 Census and to consist only of contiguous territory. The county boards of elections, at a time deemed necessary by the Executive Secretary-Director of the State Board of Elections, shall file with the Legislative Services Office the maps ~~sent to them and marked by them~~ on which they have designated their precincts pursuant to this subsection.

(3) After examining the ~~returned~~ maps, the Legislative Services Office shall submit to the Executive Secretary-Director of the State Board of Elections its opinion as to whether the county board of elections has complied with the provisions of this subsection, with notations as to where those boundaries do not comply with these standards.

(4) If the Executive Secretary-Director determines that the county board of elections has complied, he shall approve the precinct boundaries as filed and those precincts shall be the official precincts.

(5) If the Executive Secretary-Director determines that the county board of elections has not complied, he shall not approve those precinct boundaries but shall alter the precinct boundaries so that each precinct consists solely of contiguous territory and that each precinct's boundaries are coterminous with 2000 Census block boundaries nearest to the precinct boundaries shown by the county boards on the maps. These altered precincts shall then be the official precincts.

(6) Upon the adoption of a resolution by a county board of elections and instead of altering precinct lines as required by G.S. 163-132.1(c)(5), the Executive Secretary-Director may combine for Census reporting purposes only two or more adjacent precincts of the county into a Combined Reporting Unit, if the Executive Secretary-Director finds that:

a. The boundaries of the Combined Reporting Unit conform with the Census block boundaries as shown on the official block maps to be used in the 2000 Census;

b. The Combined Reporting Unit consists only of contiguous territory;

c. The precincts of which the Combined Reporting Unit consists were bounded as of January 1, 1996, by ridgelines, as certified on official county maps by the county manager of the relevant county, or if there is no county manager the chair of the board of commissioners, and the boundaries failed to comply with subdivision (2) of this subsection only because those ridgelines were unrecognized as Census block boundaries in the 2000 official Census maps;

d. The Combined Reporting Unit does not contain a majority of the territory of more than one township; and

e. To alter those precinct boundaries would result in significant voter dislocation.

If the Executive Secretary-Director recognizes a Combined Reporting Unit for specific precincts, the official boundaries of those individual precincts forming the Combined Reporting Unit shall be those which the Legislative Services Office submitted to the Executive Secretary-Director under subdivision (3) of this subsection.

(7) The Executive Secretary-Director shall file the completed maps with the Census Bureau and request that the Census Bureau provide summaries of 2000 Census data by precinct and Combined Reporting Units.

(d) Freezing of Precincts. -- Notwithstanding the provisions of G.S. 163-132.3, after the Executive Secretary-Director approves the precincts in accordance with subsection (c) of this section and before January 2, ~~2000,~~ 2002, no county board of elections may establish, alter, discontinue, or create any precinct except by division of one precinct into two or more precincts using lines that the Census Bureau has indicated it will use as 2000 Census block boundaries for that division. Provided that, whenever an annexation ordinance adopted under Parts 1, 2, or 3 of Article 4A of Chapter 160A of the General Statutes, or a local act of the General Assembly annexing property to a municipality, becomes effective during the period beginning with the date of the annexation as reported through the U.S. Census Bureau's 1998 Boundary and Annexation Survey and ending January 2, ~~2000,~~ 2002, and any part of the boundary of the area being annexed which is actually contiguous to the city is also a precinct boundary for elections administered by the county board of elections then the county board of elections may exercise one of the following options:

(1) Direct by resolution that the annexed area is automatically moved into the 'city precinct', provided that if the annexed area is adjacent to more than one city precinct, the board of elections shall place the area in any one or more of the adjacent city precincts.

(2) Adopt a resolution moving the precinct boundary to a visible feature that the Census Bureau has indicated it will use as a 2000 block boundary.

The county board of elections shall submit any proposed change made during the freeze under this subsection to the Legislative Services Office, which shall review the proposal and write a letter advising the Executive Secretary-Director of its opinion as to the legal compliance of the proposal. If the proposal complies with the law, the Executive Secretary-Director shall approve the proposal. No newly created or altered precinct boundary is effective until approved by the Executive Secretary-Director as being in compliance with the provisions of this subsection. ~~The county board of elections may delay the effective date of any change under this subsection to a date not later than January 1, 2002.~~

(d1) Right to Postpone Effective Date Until January 1, 2000. -- A county board of elections may postpone the effective date of the precincts designated in Phase II until January 1, 2000.

(d2) Special Permission to Postpone Effective Date Until January 1, 2001. -- The Executive Secretary-Director may permit a county board of elections to postpone the effective date of precinct lines designated under Phase II until January 1, 2001, upon written application by the county board of elections, if the Executive Secretary-Director finds both of the following:

(1) That the Phase II-designated lines would create a split precinct in 2000 for county commissioner, board of education, judicial, State legislative, or congressional district elections and that a split could be avoided by using the pre-Phase II precinct.

(2) That the county can provide reasonably reliable voter registration data for April and October of 2000 by the Phase II-designated precincts.

In granting an exception under this subsection, the Executive Secretary-Director shall allow an exception only for the precincts that would result in splits and for any adjacent precincts for which pre-Phase II precincts must be used to avoid geographic overlap or discontinuity. Every county board of elections granted an exception under this subsection shall provide to the State Board of Elections voter registration data for April and October of 2000 by the Phase II-designated precincts.

(e) Municipal and Township Boundaries. -- Notwithstanding the provisions of subsections (c) and (d) of this section, the county boards of elections may designate precinct boundaries on municipal or township boundaries that are not designated on the 2000 official Census block maps, according to directives promulgated by the Executive Secretary-Director of the State Board of Elections and adopted to insure that all precincts shall be included on the 2000 Census database.

(f) Additional Rules. -- In addition to the directives promulgated by the Executive Secretary-Director of the State Board of Elections under G.S. 163-132.4, the Legislative Services Commission may promulgate rules to implement this section.

~~*"§ 163-132.14. Precinct boundaries for certain counties.*~~

~~(a) The boundaries of precincts for the counties listed in subsection (b) of this section are those recorded in the Legislative Services Office's automated redistricting system as of May 1, 1991, except as changed in accordance with G.S. 163-132.3, and except in Caldwell County, the boundaries of Lenoir #3, North Catawba, Gamewell #1, and Gamewell #2 Precincts shall be as provided on the precinct map of the county adopted by the Caldwell County Board of Elections and in effect on January 1, 1992, unless changed in accordance with G.S. 163-132.1 or G.S. 163-132.3, whichever occurs later.~~

~~(b) This section shall apply only to the following counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba,~~

~~Chatham, Chowan, Cleveland, Craven, Cumberland, Davidson, Duplin, Durham, Edgecombe, Forsyth, Gaston, Granville, Guilford, Halifax, Harnett, Henderson, Iredell, Johnston, Jones, Lenoir, Mecklenburg, Nash, New Hanover, Onslow, Orange, Pender, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Surry, Union, Wake, Washington, Wayne, Wilkes, Wilson, and Yancey.~~

~~"§ 163-132.2. Precinct boundaries for other counties.~~

~~(a) The Legislative Services Office shall send as directed by the schedule contained in subsection (g) of this section the relevant copies of the United States Census Bureau's official census block maps of the 1990 United States Census to each county board of elections. The county board of elections shall:~~

~~(1) Alter, where necessary, precinct boundaries to be coterminous with those of:~~

~~a. Townships, as certified by the county manager, or the chairman of the board of county commissioners if there is not a county manager, on the official map of the county;~~

~~b. The census blocks established under the latest U.S. Census;~~

~~c. The following visible physical features, readily distinguishable upon the ground:~~

~~1. Roads or streets;~~

~~2. Water features or drainage features;~~

~~3. Ridgelines;~~

~~4. Ravines;~~

~~5. Jeep trails;~~

~~6. Rail features;~~

~~7. Above-ground power lines; or~~

~~8. Major footpaths~~

~~as certified by the North Carolina Department of Transportation on its highway maps or the county manager of the relevant county or, if there is no county manager, the chair of the county board of commissioners, on official county maps.~~

~~d. Municipalities, as certified by the city clerk on the official map of the city; or~~

~~e. A combination of these boundaries;~~

~~(1a) Alter, where necessary, precinct boundaries so that each precinct is composed solely of contiguous territory;~~

~~(2) Mark all precinct boundaries on the maps sent by the Legislative Services Office or on other maps or electronic databases approved by the Executive Secretary-Director, showing the precinct boundaries in effect as of the time of marking, but with any changes effective at a later time as provided by subsection (d) of this section; and~~

~~(3) File, at a time deemed necessary by the Executive Secretary-Director of the State Board of Elections, with the~~

~~State Board and the Legislative Services Office the maps identifying the precinct boundaries. The Executive Secretary-Director may require a county board of elections to file a written description of the boundaries of any precinct or part thereof.~~

~~(b) The Executive Secretary-Director of the State Board of Elections and the Legislative Services Office shall examine the returned maps and their written descriptions. After its examination of the maps and their written descriptions, the Legislative Services Office shall submit to the Executive Secretary-Director of the State Board of Elections its opinion as to whether the county board of elections has complied with the provisions of subsection (a) of this section, with notations as to where those boundaries do not comply with these standards. If the Executive Secretary-Director of the State Board determines that the county board of elections has complied with the provisions of subsection (a) of this section, the Executive Secretary-Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts.~~

~~(c) If the Executive Secretary-Director of the State Board determines that the county board of elections has not complied with the provisions of subsection (a) of this section, he shall not approve those precinct boundaries but shall alter the precinct boundaries so that each precinct consists solely of contiguous territory and that each precinct's boundaries are coterminous with those boundaries set forth in subsection (a)(1) of this section nearest to those existing precinct boundaries. These altered precincts shall then be the official precincts.~~

~~(d) The changes in precinct boundaries under subsections (b) and (c) of this section shall be made effective not later than January 1, 1997; unless the change would result in placing a precinct in more than one State House of Representatives, State Senate, or Congressional district, in which case it shall be made effective not later than January 1, 2002.~~

~~(e), (f) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 927, s. 1.~~

~~(g) The Legislative Services Office shall send maps, under subsection (a) of this section, to the counties named below by the dates indicated:~~

- ~~(1) Maps to be sent not later than January 1, 1993, to the following counties: Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Currituck, Cherokee, Clay, Franklin, Gates, and Hoke;~~
- ~~(2) Maps to be sent not later than January 1, 1994, to the following counties: Columbus, Dare, Davie, Graham, Greene, Haywood, Hertford, Hyde, Jackson, Lee, Lincoln, Madison, Martin, Mitchell, Montgomery, Northampton, and Pasquotank; and~~

~~(3) Maps to be sent not later than January 1, 1995, to the following counties: Macon, McDowell, Moore, Pamlico, Perquimans, Person, Polk, Rutherford, Stanly, Stokes, Swain, Transylvania, Tyrrell, Vance, Warren, Watauga, and Yadkin.~~

~~(h) This section shall apply only to the following counties: Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Cherokee, Clay, Columbus, Currituck, Dare, Davie, Franklin, Gates, Graham, Greene, Haywood, Hertford, Hoke, Hyde, Jackson, Lee, Lincoln, Macon, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Northampton, Pamlico, Pasquotank, Perquimans, Person, Polk, Rutherford, Stanly, Stokes, Swain, Transylvania, Tyrrell, Vance, Warren, Watauga, and Yadkin.~~

~~(i) Any county board of elections whose precincts were not approved by the Executive Secretary-Director under the provisions of this section during the year by which maps were to be sent to the county under subsection (g) of this section shall submit precinct boundary changes that comply with subsection (a) of this section to the Legislative Services Office before January 1, 1996, according to directives promulgated by the Executive Secretary-Director.~~

"§ *163-132.3. Alterations to approved precinct boundaries.*

(a) No county board of elections ~~of a county listed in G.S. 163-132.1A(b), after January 1, 1990, and no county board of elections of a county listed in G.S. 163-132.2(h), after its precinct boundaries are approved pursuant to G.S. 163-132.2,~~ may change any precinct boundary unless the proposed new precinct consists solely of contiguous territory and its new boundaries are coterminous with those of:

(1) Townships, as certified by the county manager, or the chairman of the board of county commissioners if there is not a county manager, on the official map of the county;

(2) The census blocks established under the latest U.S. Census or the boundaries contained on the latest preliminary U.S. Census maps, issued under P.L. 94-171, whichever occurs later;

(3) The following visible physical features, readily distinguishable upon the ground:

a. Roads or streets;

b. Water features or drainage features;

c. Ridgelines;

~~d. Ravines;~~

~~e. Jeep trails;~~

f. Rail features;

g. ~~Above-ground power lines; or~~ Major above-ground power lines; or

h. Major footpaths

as certified by the North Carolina Department of Transportation on its highway maps or the county manager

of the relevant county or, if there is no county manager, the chair of the county board of commissioners, on official county maps.

(4) Municipalities, as certified by the city clerk on the official map of the city; or

(5) A combination of these boundaries.

The county boards of elections shall report precinct boundary changes by filing with the Legislative Services Office on current official census maps or maps certified by the North Carolina Department of Transportation or the county's planning department or on other maps or electronic databases approved by the Executive Secretary-Director the new boundaries of these precincts. The Executive Secretary-Director may require a county board of elections to file a written description of the boundaries of any precinct or part thereof. No newly created or altered precinct boundary is effective until approved by the Executive Secretary-Director of the State Board as being in compliance with this subsection. No precinct may be changed under this section between the date its boundaries become effective under G.S. 163-132.1(c) and January 2, 2002. Any changes to precincts during that period shall be made as provided in G.S. 163-132.1(d).

(b) The Executive Secretary-Director of the State Board of Elections and the Legislative Services Office shall examine the maps of the proposed new or altered precincts and any required written descriptions. After its examination of the maps and their written descriptions, the Legislative Services Office shall submit to the Executive Secretary-Director of the State Board of Elections its opinion as to whether all of the proposed precinct boundaries are in compliance with subsection (a) of this section, with notations as to where those boundaries do not comply with these standards. If the Executive Secretary-Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Secretary-Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts.

(c) If the Executive Secretary-Director of the State Board determines that the proposed precinct boundaries are not in compliance with subsection (a) of this section, he shall not approve those precinct boundaries. He shall notify the county board of elections of his disapproval specifying the reasons. The county board of elections may then resubmit new precinct maps and written descriptions to cure the reasons for their disapproval.

"*§ 163-132.4. Directives.*

The Executive Secretary-Director of the State Board of Elections may promulgate directives concerning its duties and those of the county boards of elections under this Article.

"*§ 163-132.5. Cooperation of State and local agencies.*

The State Budget Office, the Department of Transportation and county and municipal planning departments shall cooperate and assist

the Legislative Services Office, the Executive Secretary-Director of the State Board of Elections and the county boards of elections in the implementation of this Article.

"§ *163-132.5A:* Repealed by Session Laws 1991 (Regular Session, 1992), c. 927, s. 1.

"§ *163-132.5B. Exemption from Administrative Procedure Act.*

The State Board of Elections is exempt from the provisions of Chapter 150B of the General Statutes while acting under the authority of this Article. Appeals from a final decision of the Executive Secretary-Director of the State Board of Elections under this Article shall be taken to the State Board of Elections within 30 days of that decision. The State Board shall approve, disapprove or modify the Executive Secretary's decision within 30 days of receipt of notice of appeal. Failure of the State Board to act within 30 days of receipt of notice of appeal shall constitute a final decision approving that of the Executive Secretary. Appeals from a final decision of the State Board under this Article shall be taken to the Superior Court of Wake County.

"§ *163-132.5C. Local acts and township lines.*

(a) Notwithstanding the provisions of any local act, a county board of elections need not have the approval of any other county board or commission to make precinct boundary changes required by this Article.

(b) Precinct boundaries established, retained or changed under this Article, or changed to follow a district line where a precinct has been divided in a districting plan, may cross township lines.

"§ *163-132.5D. Retention of precinct maps.*

The Executive Secretary-Director of the State Board of Elections shall retain the maps and written descriptions which he approves pursuant to G.S. 163-132.3.

~~"§ *163-132.5E. Precinct maps and voter statistics filed with the Legislative Services Office.*~~

~~(a) No later than January 31 of each year, the chairman of each county board of elections shall file with the Legislative Services Office a map showing the county's precincts as of January 1 of that year.~~

~~(b) Not later than January 31 of each year, the chair of each county board of elections shall file with the Legislative Services Office a list of each precinct in the county as of January 1 of that year and the number of registered voters, in each precinct, by political party and race; and, no later than January 31 of each year beginning in 1996, with a numerical breakdown as to the race of registered voters of each political party.~~

~~(c) The Legislative Services Office shall develop and send by mail to each county board of elections by September 15 of each year a standard electronic data format that can be used in the following year by county boards of election as an alternative method of filing the list required by subsection (b) of this section. The standard electronic data format shall be for data provided in international standard ASCII file format on 9-track magnetic tape, 8-millimeter magnetic tape, 5 1/4~~

~~inch diskettes, or 3 1/2 inch diskettes. The standard electronic data format shall contain the name of the precinct, and for each precinct the total number of registered voters, the number of registered voters by party affiliation, the number of registered voters by race, and a numerical breakdown as to the race of registered voters in each political party.~~

"§ *163-132.5F. U.S. Census data by precinct.*

The State shall request the U.S. Census Bureau for each decennial census to provide summaries of census data by precinct and shall participate in any U.S. Bureau of the Census' program to effectuate this provision.

"§ *163-132.6:* Repealed by Session Laws 1991 (Regular Session, 1992), c. 927, s. 1."

Section 2. Notwithstanding the provisions of Sections 2 and 3 of Chapter 423 of the 1995 Session Laws, the version of G.S. 163-132.3 contained in Section 1 of this act is effective upon this act's becoming law and does not expire. To the extent it is inconsistent with the provisions of this act, Section 3 of Chapter 423 of the 1995 Session Laws is repealed.

Section 3. Section 1 of Chapter 1012 of the 1989 Session Laws reads as rewritten:

"Section 1. (a) The General Assembly finds that:

(1) Largely because of the 1982 amendments to the Voting Rights Act of 1965, the number of cities electing governing boards by districts has increased to more than 50;

(2) The federal constitution and G.S. 160A-23 require that units of government electing on the district basis have district boundaries that follow the one-person-one-vote rule;

(3) The Voting Rights Act of 1965 requires that minorities have the opportunity to elect candidates of their choice;

(4) Census data will not be released until April 1, ~~1991,~~ 2001, and may not be in usable form for redistricting purposes by local governments until several weeks after that;

(5) Many cities are subject to Section 5 of the Voting Rights Act of 1965, requiring federal approval of any changes in district boundaries before filing can even open, a process which can take 60 or more days;

(6) Filing is currently scheduled to open for municipal elections on ~~July 5, 1991;~~ July 6, 2001;

(7) ~~A consent judgement in a federal lawsuit between the City of New York and the Census Bureau may result in adjusted census data being released on July 15, 1991, after filing has already opened.~~ The United States Supreme Court in its 1999 opinion in the case of Department of Commerce vs. United States House of Representatives has stated that the Census Bureau's plan to use census data for congressional apportionment was invalid, but adjusted data might be able to be used for redistricting itself. Further litigation in the lower courts will continue over which set of

census data to use, litigation that likely will extend into 2000 and 2001, presenting possible chaos;

(8) Trying to deal with all of this on an ad hoc, city-by-city basis may result in needless legal expenses, confusion, chaos, and delays;

(9) A uniform system of anticipating these problems needs to be adopted in ~~1990,~~ 1999, which will allow a structured approach by the cities involved, allowing an organized election system while protecting the rights of minorities to be involved in the redistricting process and minimizing litigation;

(10) Changes need to be made now to allow ~~possible adjustment of census data on July 15, 1991, not to occur~~ for the possibility that census-related litigation might not be resolved until the middle of the redistricting process, or perhaps even while filing is already open for municipal offices in cities with a district system; and

(11) If cities are unable to complete redistricting in ~~1991~~ 2001 in a timely fashion, it will be far better to put off the elections by six months or a year (depending on the type of electoral system) in an identical method as was allowed in 1991 than to have court-ordered delays or a chaotic election year for candidates and election officials, except that if changes have been adopted but approval under the Voting Rights Act of 1965 is still pending on the date filing is to open, the ~~1991~~ 2001 election should be held under prior district boundaries so as to minimize disruption.

(b) The ~~1991 Session~~ 2000 and 2001 Sessions of the General Assembly may make further changes in the election timetable as more details about the possible July 1991 adjustment of census data become available.

(c) In order to devise a plan that conforms to the Voting Rights Act of 1965, changes in the number of district seats may need to be made, but the current procedural requirements in the general law for making such changes are too restrictive to allow meaningful use in ~~1991~~ 2001 without the changes made by this act."

Section 4. G.S. 160A-23.1 reads as rewritten:

"*§ 160A-23.1. Special rules for redistricting after ~~1990~~ 2000 census.*

(a) As soon as possible after receipt of federal census information in ~~1991~~ 2001 the council of any city which elects the members of its governing board on a district basis, or where candidates for such office must reside in a district in order to run, shall evaluate the existing district boundaries to determine whether it would be lawful to hold the next election without revising districts to correct population imbalances. If such revision is necessary, the council shall consider whether it will be possible to adopt the changes (and obtain approval from the United States Department of Justice, if necessary) before the third day before opening of the filing period for the municipal election. The council shall take into consideration the time that will

be required to afford ample opportunities for public input. If the council determines that it most likely will not be possible to adopt the changes (and obtain federal approval, if necessary) before the third business day before opening of the filing period, and determines further that the population imbalances are so significant that it would not be lawful to hold the next election using the current electoral districts, it may adopt a resolution delaying the election so that it will be held on the timetable provided by subsection (d) of this section. Before adopting such a resolution, the council shall hold a public hearing on it. The notice of public hearing shall summarize the proposed resolution and shall be published at least once in a newspaper of general circulation, not less than seven days before the date fixed for the hearing. Notwithstanding adoption of such a resolution, if the council proceeds to adopt the changes, (and federal approval is obtained, if necessary) by the end of the third business day before the opening of the filing period, the election shall be held on the regular schedule under the revised electoral districts. Any resolution adopted under this subsection, and any changes in electoral district boundaries made under this section shall be submitted to the United States Department of Justice (if the city is covered under Section 5 of the Voting Rights Act of 1965), the State Board of Elections, and to the board conducting the elections for that city.

(b) In adopting any revisal under this section, if the council determines that in order for the plan to conform to the Voting Rights Act of 1965, the number of district seats needs to be increased or decreased, it may do so by following the procedures set forth in Part 4 of Article 5 of Chapter 160A of the General Statutes, except that the ordinance under G.S. 160A-102 may be adopted at the same meeting as the public hearing, and any referendum on the change under G.S. 160A-103 shall not apply to the municipal election in ~~1991 or 1992.~~ 2001 or 2002.

(c) If the resolution provided for in subsection (a) of this section is not adopted and:

(1) Proposed changes to the electoral districts are not adopted, or

(2) Such changes are adopted, but approval under the Voting Rights Act of 1965, as amended, is required, and notice of such approval is not received,

by the end of the third business day before the opening of the filing period, the election shall be held on the regular schedule using the current electoral districts.

(d) If the council adopts the resolution provided for in subsection (a) of this section and:

(1) Does not adopt the changes, or

(2) Does adopt the changes, but approval under the Voting Rights Act of 1965, as amended, is required, and notice of such approval is not received,

by the end of the third day before the opening of the filing period, the municipal election shall be rescheduled as provided in this subsection

and current officeholders shall hold over until their successors are elected and qualified. For cities using the:

(1) Partisan primary and election method under G.S. 163-291, the primary shall be held on the primary election date for county officers in ~~1992,~~ 2002, the second primary, if necessary, shall be held on the second primary election date for county officers in ~~1992,~~ 2002, and the general election shall be held on the general election date for county officers in 1992;

(2) Nonpartisan primary and election method under G.S. 163-294, the primary shall be held on the primary election date for county officers in ~~1992~~ 2002 and the election shall be held on the date for the second primary for county officers in ~~1992;~~ 2002;

(3) Nonpartisan plurality election method under G.S. 163-292, the election shall be held on the primary election date for county officers in ~~1992;~~ 2002;

(4) Election and runoff method under G.S. 163-293, the election shall be held on the primary election date for county officers in ~~1992~~ 2002 and the runoffs, if necessary, shall be held on the date for the second primary for county officers in ~~1992.~~ 2002.

The organizational meeting of the new council may be held at any time after the results of the election have been officially determined and published, but not later than the time and date of the first regular meeting of the council in July ~~1992,~~ 2002, except in the case of partisan municipal elections, when the organizational meeting shall be held not later than the time and date of the first regular meeting of the council in December of ~~1992.~~ 2002."

Section 5. G.S. 163-291(2) reads as rewritten:

"(2) A candidate seeking party nomination for municipal or district office shall file his notice of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the first Friday in August preceding the ~~election.~~ election, except:

a. In 2001 a candidate seeking party nomination for municipal or district office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file his notice of candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and

b. In 2002 if the election is held then under G.S. 160A-23.1, a candidate seeking party nomination for municipal or district office shall file his notice of candidacy with the board of elections at the same time as notices of candidacy for county officers are required to be filed under G.S. 163-106.

No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the county board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for that election unless the notice of candidacy for the first office is withdrawn first."

Section 6. G.S. 163-294.2(c) reads as rewritten:

"(c) Candidates seeking municipal office shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the first Friday in August preceding the election, except:

(1) In ~~1991~~ 2001 candidates seeking municipal office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and

(2) In ~~1992~~ 2002 if the election is held then under G.S. 160A-23.1, candidates seeking municipal office shall file their notices of candidacy with the board of elections at the same time as notices of candidacy for county officers are required to be filed under G.S. 163-106.

Notices of candidacy which are mailed must be received by the board of elections before the filing deadline regardless of the time they were deposited in the mails."

Section 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 1999.

Became law upon approval of the Governor at 11:45 a.m. on the 25th day of June, 1999.

S.B. 756 **SESSION LAW 1999-228**

AN ACT TO INCREASE MANDATORY LIABILITY INSURANCE REQUIREMENTS FOR CERTAIN MOTOR VEHICLES AND TO MAKE CONFORMING CHANGES IN CHAPTER 58 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.1(11) reads as rewritten:

"(11) 'Proof of financial responsibility': Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount

of ~~fifty thousand dollars ($50,000)~~ sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident, and in the amount of ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) because of injury to or destruction of property of others in any one accident. Nothing contained herein shall prevent an insurer and an insured from entering into a contract, not affecting third parties, providing for a deductible as to property damage at a rate approved by the Commissioner of Insurance."

Section 2. G.S. 20-279.5(c) reads as rewritten:

"(c) This section shall not apply under the conditions stated in G.S. 20-279.6 nor:

(1) To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

(2) To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident a motor vehicle liability policy or bond with respect to his operation of motor vehicles not owned by him;

(3) To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the Commissioner, covered by any other form of liability insurance policy or bond or sinking fund or group assumption of liability;

(4) To any person qualifying as a self-insurer, nor to any operator for a self-insurer if, in the opinion of the Commissioner from the information furnished him, the operator at the time of the accident was probably operating the vehicle in the course of the operator's employment as an employee or officer of the self-insurer; nor

(5) To any employee of the United States government while operating a vehicle in its service and while acting within the scope of his employment, such operations being fully protected by the Federal Tort Claims Act of 1946, which affords ample security to all persons sustaining personal injuries or property damage through the negligence of such federal employee.

No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this State, except that if such motor vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, or if such operator not an owner was a nonresident of this State, such policy or bond shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the Commissioner to accept service on its behalf of notice or process in any action upon such policy, or bond arising out of such accident, and unless said insurance company or

surety company, if not authorized to do business in this State, is authorized to do business in the state or other jurisdiction where the motor vehicle is registered or, if such policy or bond is filed on behalf of an operator not an owner who was a nonresident of this State, unless said insurance company or surety company, if not authorized to do business in this State, is authorized to do business in the state or other jurisdiction of residence of such operator; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and cost, of not less than ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than ~~fifty thousand dollars ($50,000)~~ sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) because of injury to or destruction of property of others in any one accident."

Section 3. G.S. 20-279.15 reads as rewritten:

"§ *20-279.15. Payment sufficient to satisfy requirements.*

In addition to other methods of satisfaction provided by law, judgments herein referred to shall, for the purpose of this Article, be deemed satisfied:

(1) When ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

(2) When, subject to such limit of ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) because of bodily injury to or death of one person, the sum of ~~fifty thousand dollars ($50,000)~~ sixty thousand dollars ($60,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

(3) When ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident;

Provided, however, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section."

Section 4. G.S. 20-279.21(b)(2) reads as rewritten:

"(b) Such owner's policy of liability insurance:

(1) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted;

(2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, or any other persons in lawful possession, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, ~~fifty thousand dollars ($50,000)~~ sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident, and ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) because of injury to or destruction of property of others in any one accident; and".

Section 5. G.S. 20-279.25(a) reads as rewritten:

"(a) Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him ~~sixty-five thousand dollars ($65,000)~~ eighty-five thousand dollars ($85,000) in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of ~~sixty-five thousand dollars ($65,000).~~ eighty-five thousand dollars ($85,000). The State Treasurer shall not accept any such deposit and issue a certificate therefor and the Commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides."

Section 6. G.S. 20-280 reads as rewritten:

"*§ 20-280. Filing proof of financial responsibility with governing board of municipality or county.*

(a) Within 30 days after March 27, 1951, every person, firm or corporation engaging in the business of operating a taxicab or taxicabs within a municipality shall file with the governing board of the municipality in which such business is operated proof of financial responsibility as hereinafter defined.

No governing board of a municipality shall hereafter issue any certificate of convenience and necessity, franchise, license, permit or other privilege or authority to any person, firm or corporation authorizing such person, firm or corporation to engage in the business of operating a taxicab or taxicabs within the municipality unless such person, firm or corporation first files with said governing board proof of financial responsibility as hereinafter defined.

Within 30 days after the ratification of this section, every person, firm or corporation engaging in the business of operating a taxicab or taxicabs without the corporate limits of a municipality or municipalities, shall file with the board of county commissioners of

the county in which such business is operated proof of financial responsibility as hereinafter defined.

No person, firm or corporation shall hereafter engage in the business of operating a taxicab or taxicabs without the corporate limits of a municipality or municipalities in any county unless such person, firm or corporation first files with the board of county commissioners of the county in which such business is operated proof of financial responsibility as hereinafter defined.

(b) As used in this section 'proof of financial responsibility' shall mean a certificate of any insurance carrier duly authorized to do business in the State of North Carolina certifying that there is in effect a policy of liability insurance insuring the owner and operator of the taxicab business, his agents and employees while in the performance of their duties against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident and arising out of the ownership, use or operation of such taxicab or taxicabs, subject to limits (exclusive of interests and costs) with respect to each such motor vehicle as follows: ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, ~~fifty thousand dollars ($50,000)~~ sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident, and ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) because of injury to or destruction of property of others in any one accident.

(c) Every person, firm or corporation who engages in the taxicab business and who is a member of or participates in any trust fund or sinking fund, which said trust fund or sinking fund is for the sole purpose of paying claims, damages or judgments against persons, firms or corporations engaging in the taxicab business and which trust fund or sinking fund is approved by the governing body of any city or municipality with a population of over 50,000, shall be deemed a compliance with the financial responsibility provisions of this section.

Provided, however, that in the case of operators of 15 or more taxicabs, the limits (exclusive of interests and costs), with respect to each such motor vehicle shall be as follows: twenty thousand dollars ($20,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, forty thousand dollars ($40,000) because of bodily injury to or death of two or more persons in any one accident, and ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) because of injury to or destruction of property of others in any one accident."

Section 7. G.S. 20-281 reads as rewritten:

"*§ 20-281. Liability insurance prerequisite to engaging in business; coverage of policy.*

From and after July 1, 1953, it shall be unlawful for any person, firm or corporation to engage in the business of renting or leasing

motor vehicles to the public for operation by the rentee or lessee unless such person, firm or corporation has secured insurance for his own liability and that of his rentee or lessee, in such an amount as is hereinafter provided, from an insurance company duly licensed to sell motor vehicle liability insurance in this State. Each such motor vehicle leased or rented must be covered by a policy of liability insurance insuring the owner and rentee or lessee and their agents and employees while in the performance of their duties against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident arising out of the operation of such motor vehicle, subject to the following minimum limits: ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident, and ~~fifty thousand dollars ($50,000)~~ sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident, and ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) because of injury to or destruction of property of others in any one accident. Provided, however, that nothing in this Article shall prevent such operators from qualifying as self-insurers under terms and conditions to be prepared and prescribed by the Commissioner of Motor Vehicles or by giving bond with personal or corporate surety, as now provided by G.S. 20-279.24, in lieu of securing the insurance policy hereinbefore provided for."

Section 8. G.S. 58-37-35(b), as amended by S.L. 1999-132, reads as rewritten:

"(b) The Facility shall reinsure for each coverage available therein to the standard percentage of one hundred percent (100%) or lesser equitable percentage established in the plan of operation as follows:

(1) For the following coverages of motor vehicle insurance and in at least the following amounts of insurance:

a. Bodily injury liability: ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) each person, ~~fifty thousand dollars ($50,000)~~ sixty thousand dollars ($60,000) each accident;

b. Property damage liability: ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) each person;

c. Medical payments: one thousand dollars ($1,000) each person; except that this coverage shall not be available for motorcycles;

d. Uninsured motorist: ~~twenty-five thousand dollars ($25,000)~~ thirty thousand dollars ($30,000) each person; ~~fifty thousand dollars ($50,000)~~ sixty thousand dollars ($60,000) each accident for bodily injury; ~~fifteen thousand dollars ($15,000)~~ twenty-five thousand dollars ($25,000) each accident property damage (one hundred dollars ($100.00) deductible);

e. Any other motor vehicle insurance or financial responsibility limits in the amounts required by any federal law or federal agency regulation; by any law of this State; or by any rule duly adopted under Chapter 150B of the General Statutes or by the North Carolina Utilities Commission.

(2) Additional ceding privileges for motor vehicle insurance shall be provided by the Board of Governors if there is a substantial public demand for a coverage or coverage limit of any component of motor vehicle insurance up to the following:

Bodily injury liability: one hundred thousand dollars ($100,000) each person, three hundred thousand dollars ($300,000) each accident;

Property damage liability: fifty thousand dollars ($50,000) each accident;

Medical payments: two thousand dollars ($2,000) each person;

Underinsured motorist: one million dollars ($1,000,000) each person and each accident for bodily injury liability;

Uninsured motorist: one million dollars ($1,000,000) each person and each accident for bodily injury and fifty thousand dollars ($50,000) for property damage (one hundred dollars ($100.00) deductible). (3) Whenever the additional ceding privileges are provided as in G.S. 58-37-35(b)(2) for any component of motor vehicle insurance, the same additional ceding privileges shall be available to 'all other' types of risks subject to the rating jurisdiction of the North Carolina Rate Bureau."

Section 9. This act becomes effective July 1, 2000, and applies to new or renewal policies written to become effective on or after that date.

In the General Assembly read three times and ratified this the 16th day of June, 1999.

Became law upon approval of the Governor at 3:30 p.m. on the 27th day of June, 1999.

S.B. 867 **SESSION LAW 1999-229**

AN ACT AMENDING CERTAIN PROVISIONS OF THE REAL ESTATE LICENSE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93A-1 reads as rewritten:

"*§ 93A-1. License required of real estate brokers and real estate ~~salesmen.~~ salespersons.*

From and after July 1, 1957, it shall be unlawful for any person, partnership, corporation, limited liability company, association, or

other business entity in this State to act as a real estate broker or real estate ~~salesman,~~ salesperson, or directly or indirectly to engage or assume to engage in the business of real estate broker or real estate ~~salesman~~ salesperson or to advertise or hold himself or herself or themselves out as engaging in or conducting such business without first obtaining a license issued by the North Carolina Real Estate Commission (hereinafter referred to as the Commission), under the provisions of this Chapter. A license shall be obtained from the Commission even if the person, partnership, corporation, limited liability company, association, or business entity is licensed in another state and is affiliated or otherwise associated with a licensed real estate broker or salesperson in this State."

Section 2. G.S. 93A-2 is amended by adding a new subsection to read:

"(a1) The term broker-in-charge within the meaning of this Chapter shall mean a real estate broker who has been designated as the broker having responsibility for the supervision of real estate salesperson engaged in real estate brokerage at a particular real estate office and for other administrative and supervisory duties as the Commission shall prescribe by rule."

Section 3. G.S. 93A-2(b) reads as rewritten:

"(b) The term real estate ~~salesman~~ salesperson within the meaning of this Chapter shall mean and include any person who under the supervision of a real estate broker designated as broker-in-charge of a real estate office, for a compensation or valuable consideration is associated with or engaged by or on behalf of a licensed real estate broker to do, perform or deal in any act, acts or transactions set out or comprehended by the foregoing definition of real estate broker."

Section 4. G.S. 93A-3(d) reads as rewritten:

"(d) The Commission may employ an Executive Director and professional and clerical staff as may be necessary to carry out the provisions of this Chapter and to put into effect the rules and regulations that the Commission may promulgate. The Commission shall fix salaries and shall require employees to make good and sufficient surety bond for the faithful performance of their duties. The Commission may, when it deems it necessary or convenient, delegate to the Executive Director, legal counsel for the Commission, or other Commission staff, professional or clerical, the Commission's authority and duties under this Chapter, but the Commission may not delegate its authority to make rules or its duty to act as a hearing panel in accordance with the provisions of G.S. 150B-40(b)."

Section 5. G.S. 93A-4A is amended by adding a new subsection to read:

"(a1) In addition to the requirements of subsection (a) of this section, the Commission may require real estate brokers-in-charge to complete a special course of study, not to exceed six classroom hours every three years, in subjects prescribed by the Commission."

Section 6. G.S. 93A-6(a) reads as rewritten:

"(a) The Commission shall have power to take disciplinary action. Upon its own ~~motion,~~ initiative, or on the ~~verified~~ complaint of any person, the Commission may investigate the actions of any person or entity licensed under this Chapter, or any other person or entity who shall assume to act in such capacity. If the Commission finds probable cause that a licensee has violated any of the provisions of this Chapter, the Commission may hold a hearing on the allegations of misconduct.

The Commission shall have power to suspend or revoke at any time a license issued under the provisions of this Chapter, or to reprimand or censure any licensee, if, following a hearing, the Commission adjudges the licensee to be guilty of one or more of the followi

(1) Making any willful or negligent misrepresentation or any willful or negligent omission of material ~~fact;~~ fact.

(2) Making any false promises of a character likely to influence, persuade, or ~~induce;~~ induce.

(3) Pursuing a course of misrepresentation or making of false promises through agents, ~~salesmen,~~ salespersons, advertising or ~~otherwise;~~ otherwise.

(4) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she ~~acts;~~ acts.

(5) Accepting a commission or valuable consideration as a real estate ~~salesman~~ salesperson for the performance of any of the acts specified in this Article or Article 4 of this Chapter, from any person except his or her broker-in-charge or licensed broker by whom he or she is ~~employed;~~ employed.

(6) Representing or attempting to represent a real estate broker other than the broker by whom he or she is engaged or associated, without the express knowledge and consent of the broker with whom he or she is ~~associated;~~ associated.

(7) Failing, within a reasonable time, to account for or to remit any moneys coming into his or her possession which belong to ~~others;~~ others.

(8) Being unworthy or incompetent to act as a real estate broker or ~~salesman~~ salesperson in a manner as to endanger the interest of the ~~public;~~ public.

(9) Paying a commission or valuable consideration to any person for acts or services performed in violation of this ~~Chapter;~~ Chapter.

(10) Any other conduct which constitutes improper, fraudulent or dishonest ~~dealing;~~ dealing.

(11) Performing or undertaking to perform any legal service, as set forth in G.S. 84-2.1, or any other acts constituting the practice of ~~law;~~ law.

(12) Commingling the money or other property of his or her principals with his or her own or failure to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association in North Carolina all money

received by him or her as a real estate ~~broker~~ licensee acting in that capacity, or an escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; provided, these accounts shall not bear interest unless the principals authorize in writing the deposit be made in an interest bearing account and also provide for the disbursement of the interest ~~accrued;~~ accrued.

(13) Failing to deliver, within a reasonable time, a completed copy of any purchase agreement or offer to buy and sell real estate to the buyer and to the ~~seller;~~ seller.

(14) Failing ~~as a broker~~, at the time the transaction is consummated, to deliver to the seller in every real estate transaction, a complete detailed closing statement showing all of the receipts and disbursements handled by him or her for the seller or failing to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was ~~disbursed; or~~ disbursed.

(15) Violating any rule or regulation promulgated by the Commission.

The Executive Director shall transmit a certified copy of all final orders of the Commission suspending or revoking licenses issued under this Chapter to the clerk of superior court of the county in which the licensee maintains his or her principal place of business. The clerk shall enter these orders upon the judgment docket of the county."

Section 7. Article 1 of Chapter 93A of the General Statutes is amended by adding a new section to read:

"*§ 93A-6.1. Commission may subpoena witnesses, records, documents, or other materials.*

(a) The Commission, Executive Director, or other representative designated by the Commission may issue a subpoena for the appearance of witnesses deemed necessary to testify concerning any matter to be heard before or investigated by the Commission. The Commission may issue a subpoena ordering any person in possession of records, documents, or other materials, however maintained, that concern any matter to be heard before or investigated by the Commission to produce the records, documents, or other materials for inspection. Upon written request, the Commission shall revoke a subpoena if it finds that the evidence, the production of which is required, does not relate to a matter in issue, or if the subpoena does not describe with sufficient particularity the evidence, the production of which is required, or if for any other reason in law the subpoena is invalid. If any person shall fail to fully and promptly comply with a subpoena issued under this section, the Commission may apply to any judge of the superior court resident in any county where the person to whom the subpoena is issued maintains a residence or place of business for an order compelling the person to show cause why he or she should not be held in contempt of the Commission and its

processes. The court shall have the power to impose punishment for acts that would constitute direct or indirect contempt if the acts occurred in an action pending in superior court.

(b) The Commission shall be exempt from the requirements of Chapter 53B of the General Statutes with regard to subpoenas issued to compel the production of a licensee's trust account records held by any financial institution. Notwithstanding that exemption, the Commission shall serve, pursuant to G.S. 1A-1, Rule 4(j) of the N.C. Rules of Civil Procedure or by certified mail to the licensee's last known address, a copy of the subpoena and notice that the subpoena has been served upon the financial institution. Service of the subpoena and notice on the licensee shall be made within 10 days following service of the subpoena on the financial institution holding the trust account records."

Section 8. G.S. 93A-17(a) reads as rewritten:

"(a) An aggrieved person who has suffered a direct monetary loss by reason of the conversion of trust funds by a real estate broker or ~~salesman~~ salesperson licensed under this Chapter shall be eligible to recover, subject to the limitations of this Article, the amount of trust funds converted and which is otherwise unrecoverable provided that:

(1) The act or acts of conversion which form the basis of the claim for recovery occurred on or after September 1, 1979;

(2) The aggrieved person has sued the real estate broker or ~~salesman~~ salesperson in a court of competent jurisdiction and has filed with the Commission written notice of such lawsuit within 60 days after its commencement unless the claim against the Real Estate Recovery Fund is for an amount less than ~~one thousand five hundred dollars ($1,500)~~ three thousand dollars ($3,000), excluding attorneys fees, in which case the notice may be filed within 60 days after the termination of all judicial proceedings including appeals;

(3) The aggrieved person has obtained final judgment in a court of competent jurisdiction against the real estate broker or ~~salesman~~ salesperson on grounds of conversion of trust funds arising out of a transaction which occurred when such broker or ~~salesman~~ salesperson was licensed and acting in a capacity for which a license is required; and

(4) Execution of the judgment has been attempted and has been returned unsatisfied in whole or in part.

Upon the termination of all judicial proceedings including appeals, and for a period of one year thereafter, a person eligible for recovery may file a verified application with the Commission for payment out of the Real Estate Recovery Fund of the amount remaining unpaid upon the judgment which represents the actual and direct loss sustained by reason of conversion of trust funds. A copy of the judgment and return of execution shall be attached to the application and filed with the Commission. The applicant shall serve upon the judgment debtor a copy of the application and shall file with the Commission an affidavit or certificate of such service."

Section 9. G.S. 93A-19(a) reads as rewritten:

"(a) Whenever the Commission proceeds upon an application as set forth in this Article, counsel for the Commission may defend such action on behalf of the fund and shall have recourse to all appropriate means of defense, including the examination of witnesses. The judgment debtor may defend such action on his or her own behalf and shall have recourse to all appropriate means of defense, including the examination of witnesses. ~~Within 30 days after service of the application, counsel~~ Counsel for the Commission and the judgment debtor may file responses ~~thereto~~ to the application, setting forth answers and defenses. Responses shall be filed with the Commission and copies shall be served upon every party by the filing party. If at any time it appears there are no triable issues of fact and the application for payment from the fund is without merit, the Commission shall dismiss the application. A motion to dismiss may be supported by affidavit of any person or persons having knowledge of the facts and may be made on the basis that the application or the judgment referred to therein do not form a basis for meritorious recovery within the purview of G.S. 93A-17, that the applicant has not complied with the provisions of this Article, or that the liability of the fund with regard to the particular licensee or transaction has been exhausted; provided, however, notice of such motion shall be given at least 10 days prior to the time fixed for hearing. If the applicant or judgment debtor fails to appear at the hearing after receiving notice of the hearing, the applicant or judgment debtor shall waive his or her rights unless the absence is excused by the Commission."

Section 10. G.S. 93A-20 reads as rewritten:

"§ *93A-20. Order directing payment out of fund; compromise of claims.*

Applications for payment from the Real Estate Recovery Fund shall be heard and decided by a majority of the members of the Commission. If, after a hearing, the Commission finds the claim should be paid from the fund, the Commission shall enter an order requiring payment from the fund of whatever sum the Commission shall find to be payable upon the claim in accordance with the limitations contained in this Article.

Subject to Commission approval, a claim based upon the application of an aggrieved person may be compromised; however, the Commission shall not be bound in any way by any compromise or stipulation of the judgment debtor. If a claim appears to be otherwise meritorious, the Commission may waive procedural defects in the application for payment."

Section 11. G.S. 93A-21 reads as rewritten:

"§ *93A-21. Limitations; pro rata distribution; attorney fees.*

(a) Payments from the Real Estate Recovery Fund shall be subject to the following limitations:

(1) The right to recovery under this Article shall be forever barred unless application is made within one year after termination of all proceedings including appeals, in connection with the judgment;

(2) The fund shall not be liable for more than ~~ten~~ twenty-five thousand dollars ~~($10,000)~~ ($25,000) per transaction regardless of the number of persons aggrieved or parcels of real estate involved in such transaction; and

(3) The liability of the fund shall not exceed in the aggregate ~~ten~~ twenty-five thousand dollars ~~($10,000)~~ ($25,000) for any one licensee within a single calendar year, and in no event shall it exceed in the aggregate ~~twenty~~ fifty thousand dollars ~~($20,000)~~ ($50,000) for any one licensee.

(4) The fund shall not be liable for payment of any judgment awards of consequential damages, multiple or punitive damages, civil penalties, incidental damages, special damages, interest, costs of court or action or other similar awards.

(b) If the maximum liability of the fund is insufficient to pay in full the valid claims of all aggrieved persons whose claims relate to the same transaction or to the same licensee, the amount for which the fund is liable shall be distributed among the claimants in a ratio that their respective claims bear to the total of such valid claims or in such manner as the ~~Commission~~ Commission, in its discretion, deems equitable. Upon petition of counsel for the Commission, the Commission may require all claimants and prospective claimants to be joined in one proceeding to the end that the respective rights of all such claimants to the Real Estate Recovery Fund may be equitably resolved. A person who files an application for payment after the maximum liability of the fund for the licensee or transaction has been exhausted shall not be entitled to payment and may not seek judicial review of the Commission's award of payment to any party except upon a showing that the Commission abused its discretion.

(c) In the event an aggrieved person is entitled to payment from the fund in an amount of one thousand five hundred dollars ($1,500) or less, the Commission may allow such person to recover from the fund reasonable attorney's fees incurred in effecting such recovery. Reimbursement for attorney's fees shall be limited to those fees incurred in effecting recovery from the fund and shall not include any fee incurred in obtaining judgment against the licensee."

Section 12. G.S. 93A-36(a) reads as rewritten:

"(a) Before the Commission shall issue a license the applicant shall execute a bond in the sum of five thousand dollars ($5,000), payable to the State of North Carolina, signed by a solvent guaranty company authorized to do business in the State of North Carolina, and conditioned that the principal in said bond will carry out and comply with each and every contract or agreement, written or verbal, made and entered into by the applicant's school acting by and through its officers and agents with any student who desires to enter such school and to take any courses offered therein and that said principal will refund to such students all amounts collected in tuition and fees in case of failure on the part of the party obtaining a license from the Commission to open and operate a private real estate school or to

provide the instruction agreed to or contracted for. Such bond shall be required for each school ~~or branch thereof~~ for which a license is required and shall be first approved by the Commission and then filed with the clerk of superior court of the county in which the school is located, to be recorded by such clerk in a book provided for that purpose. A separate bond shall not be required for each branch of a licensed school."

Section 13. G.S. 93A-41(2) reads as rewritten:

"(2) 'Developer' means any person or entity which creates a time share or a time share project or program, purchases a time share for purpose of resale, or is engaged in the business of selling its own time shares and shall include any person or entity who controls, is controlled by, or is in common control with the developer which is engaged in creating or selling time shares for the ~~developer;~~ developer, but a person who purchases a time share for his or her occupancy, use, and enjoyment shall not be deemed a developer;"

Section 14. G.S. 93A-41(9) reads as rewritten:

"(9) 'Time share' means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with a freehold estate or an estate for years in a time share project or a specified portion thereof, including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership, ~~or~~ vacation ~~bond;~~ bond, or a plan or system where the right to use is awarded or apportioned on the basis of points, vouchers, split, divided, or floating use;"

Section 15. G.S. 93A-52(d) reads as rewritten:

"(d) All certificates of registration granted and issued by the Commission under the provisions of this Article shall expire on the 30th day of June following issuance thereof, and shall become invalid after such date unless reinstated. Renewal of such certificate may be effected at any time during the month of June preceding the date of expiration of such registration upon proper application to the Commission and by the payment of a renewal fee fixed by the Commission but not to exceed one thousand five hundred dollars ($1,500) for each time share project. The developer shall, when making application for renewal, also provide a copy of the report required in G.S. 93A-48. Each certificate reinstated after the expiration date thereof shall be subject to a late filing fee of fifty dollars ($50.00) in addition to the required renewal fee. In the event a time share developer fails to reinstate the registration within 12 months after the expiration date thereof, the Commission may, in its discretion, consider the time share project as not having been previously registered, and thereby subject to the provisions of this Article relating to the issuance of an original certificate. Duplicate

certificates may be issued by the Commission upon payment of a fee of one dollar ($1.00) by the registrant developer. Except as prescribed by Commission rules, all fees paid pursuant to this Article shall be nonrefundable."

Section 16. This act shall have no effect on any cases pending in the courts in this State.

Section 17. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 17th day of June, 1999.

Became law upon approval of the Governor at 4:45 p.m. on the 28th day of June, 1999.

H.B. 707 **SESSION LAW 1999-230**

AN ACT AMENDING THE CHARTER OF THE TOWN OF BROADWAY TO ALLOW THE TOWN TO OPERATE UNDER A COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Broadway, being Chapter 548 of the 1947 Session Laws, is amended by adding a new section to read:

"Sec. 4A. The Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes. The town manager shall have all the powers and duties conferred by general law and the additional powers and duties conferred by the council so far as authorized by general law."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law on the date it was ratified.

S.B. 90 **SESSION LAW 1999-231**

AN ACT TO ENSURE THAT INSURERS THAT PROVIDE HEALTH INSURANCE COVERAGE FOR PRESCRIPTION DRUGS OR OUTPATIENT SERVICES PROVIDE COVERAGE FOR PRESCRIBED CONTRACEPTIVE DRUGS AND DEVICES OR OUTPATIENT CONTRACEPTIVE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 2000, Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"*§ 58-3-176. Coverage for prescription contraceptive drugs or devices and for outpatient contraceptive services; exemption for religious employers.*

(a) Except as provided in subsection (e) of this section, every insurer providing a health benefit plan that provides coverage for

prescription drugs or devices shall provide coverage for prescription contraceptive drugs or devices. Coverage shall include coverage for the insertion or removal of and any medically necessary examination associated with the use of the prescribed contraceptive drug or device. Except as otherwise provided in this subsection, the same deductibles, coinsurance, and other limitations as apply to prescription drugs or devices covered under the health benefit plan shall apply to coverage for prescribed contraceptive drugs or devices. A health benefit plan may require that the total coinsurance, based on the useful life of the drug or device, be paid in advance for those drugs or devices that are inserted or prescribed and do not have to be refilled on a periodic basis.

(b) Every insurer providing a health benefit plan that provides coverage for outpatient services provided by a health care professional shall provide coverage for outpatient contraceptive services. The same deductibles, coinsurance, and other limitations as apply to outpatient services covered under the health benefit plan shall apply to coverage for outpatient contraceptive services.

(c) As used in this section, the term:

(1) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina Department of Health and Human Services or the United States Department of Health and Human Services, or any successor agency, or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

a. Accident.
b. Credit.
c. Disability income.
d. Long-term care or nursing home care.
e. Medicare supplement.
f. Specified disease.
g. Dental or vision.
h. Coverage issued as a supplement to liability insurance.
i. Workers' compensation.
j. Medical payments under automobile or homeowners.
k. Hospital income or indemnity.
l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.

m. Short-term limited duration health insurance policies as defined in Part 144 of Title 45 of the Code of Federal Regulations.

(2) 'Insurer' includes an insurance company subject to this Chapter, a service corporation organized under Article 65 of this Chapter, a health maintenance organization organized under Article 67 of this Chapter, and a multiple employer welfare arrangement subject to Article 49 of this Chapter.

(3) 'Outpatient contraceptive services' means consultations, examinations, procedures, and medical services provided on an outpatient basis and related to the use of contraceptive methods to prevent pregnancy.

(4) 'Prescribed contraceptive drugs or devices' means drugs or devices that prevent pregnancy and that are approved by the United States Food and Drug Administration for use as contraceptives and obtained under a prescription written by a health care provider authorized to prescribe medications under the laws of this State. Prescription drugs or devices required to be covered under this section shall not include:

a. The prescription drug known as 'RU-486' or any 'equivalent drug product' as defined in G.S. 90-85.27(1).

b. The prescription drug marketed under the name 'Preven' or any 'equivalent drug product' as defined in G.S. 90-85.27(1).

(d) A health benefit plan subject to this section shall not do any of the following:

(1) Deny eligibility or continued eligibility to enroll or to renew coverage under the terms of the health benefit plan, solely for the purpose of avoiding the requirements of this section.

(2) Provide monetary payments or rebates to an individual participant or beneficiary to encourage the individual participant or beneficiary to accept less than the minimum protections available under this section.

(3) Penalize or otherwise reduce or limit the reimbursement of an attending provider because the provider prescribed contraceptive drugs or devices, or provided contraceptive services in accordance with this section.

(4) Provide incentives, monetary or otherwise, to an attending provider to induce the provider to withhold from an individual participant or beneficiary contraceptive drugs, devices, or services.

(e) A religious employer may request an insurer providing a health benefit plan to provide to the religious employer a health benefit plan that excludes coverage for prescription contraceptive drugs or devices that are contrary to the employer's religious tenets. Upon request, the insurer shall provide the requested health benefit plan. An insurer providing a health benefit plan requested by a religious employer pursuant to this section shall provide written notice to each person

covered under the health benefit plan that prescription contraceptive drugs or devices are excluded from coverage pursuant to this section at the request of the employer. The notice shall appear, in not less than 10-point type, in the health benefit plan, application, and sales brochure for the health benefit plan. Nothing in this subsection authorizes a health benefit plan to exclude coverage for prescription drugs ordered by a health care provider with prescriptive authority for reasons other than contraceptive purposes, or for prescription contraception that is necessary to preserve the life or health of a person covered under the plan. As used in this subsection, the term 'religious employer' means an entity for which all of the following are true:

(1) The entity is organized and operated for religious purposes and is tax exempt under section 501(c)(3) of the U.S. Internal Revenue Code.

(2) The inculcation of religious values is one of the primary purposes of the entity.

(3) The entity employs primarily persons who share the religious tenets of the entity."

Section 2. Effective January 1, 2000, G.S. 58-50-155 reads as rewritten:

"*§ 58-50-155. Standard and basic health care plan coverages.*

(a) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for ~~mammograms and pap smears at least equal to the coverage required by G.S. 58-51-57.~~

~~(a1) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer at least equal to the coverage required by G.S. 58-51-58.~~

~~(a2) Notwithstanding G.S. 58-50-123(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by G.S. 58-51-62.~~ all of the following:

(1) Mammograms and pap smears at least equal to the coverage required by G.S. 58-51-57.

(2) Prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer at least equal to the coverage required by G.S. 58-51-58.

(3) Reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by G.S. 58-51-62.

(4) Prescribed contraceptive drugs or devices that prevent pregnancy and that are approved by the United States Food and Drug Administration for use as contraceptives, or outpatient contraceptive services at least equal to the coverage required by G.S. 58-3-174, if the plan covers prescription drugs or devices, or outpatient services, as applicable. The same exceptions and exclusions as are

provided under G.S. 58-3-174 apply to standard plans developed and approved under G.S. 58-50-125.

(b) Notwithstanding G.S. 58-50-125(c), in developing and approving the plans under G.S. 58-50-125, the Committee and Commissioner shall give due consideration to cost-effective and life-saving health care services and to cost-effective health care providers. ~~This section shall be effective after July 10, 1991.~~"

Section 2.1. If House Bill 314, 1999 Regular Session, becomes law, then Section 2 of this act is repealed and effective January 1, 2000, G.S. 58-50-155(a) as rewritten by Section 2 of House Bill 314, 1999 Regular Session is amended by adding a new subdivision to read:

"(5) Prescribed contraceptive drugs or devices that prevent pregnancy and that are approved by the United States Food and Drug Administration for use as contraceptives, or outpatient contraceptive services at least equal to the coverage required by G.S. 58-3-174, if the plan covers prescription drugs or devices, or outpatient services, as applicable. The same exceptions and exclusions as are provided under G.S. 58-3-174 apply to standard plans developed and approved under G.S. 58-50-125."

Section 3. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Section 4. This act is effective when it becomes law and applies to health benefit plans that are delivered, issued for delivery, or renewed on and after January 1, 2000. For purposes of this act, renewal of a health benefit policy, contract, or plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law upon approval of the Governor at 11:45 a.m. on the 30th day of June, 1999.

H.B. 419 **SESSION LAW 1999-232**

AN ACT CONCERNING SATELLITE ANNEXATION AND REMOVING A CERTAIN TRACT OF PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(5) does not apply to the City of Mount Airy.

Section 2. The following described property is removed from the corporate limits of the City of Mount Airy:

BEING a 25.954 Acre tract of land recorded in Plat Book 14 Page 98 of the Surry County Register of Deeds. Said plat is entitled "The City

of Mount Airy Annexation of May 15, 1997 Index # AX93" and was surveyed by Owen Lee Osborne, Registered Land Surveyor, license number 3295. Property is shown as parcel 7162 on map 5919 of the Surry County Tax Maps.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law on the date it was ratified.

H.B. 845 **SESSION LAW 1999-233**

AN ACT EXPANDING THE PERMISSIBLE PURPOSES OF THE GREENVILLE UTILITIES COMMISSION AND AUTHORIZING THE COMMISSION TO CHARGE APPROPRIATE FEES FOR EXPANDED SERVICES.

The General Assembly of North Carolina enacts:

Section 1. In addition to the allowable public enterprises that the City of Greenville and the Greenville Utilities Commission may undertake pursuant to the provisions of Chapter 861 of the 1991 Session Laws, the City of Greenville and the Greenville Utilities Commission shall have the authority, with the approval of the City Council of the City of Greenville, to acquire, construct, establish, enlarge, improve, maintain, own, operate, or contract for the operation of the following:

(1) Steam and chilled water supply and distribution systems, if the system is located within the Greenville Industrial Park, and is located entirely within the corporate limits of the City of Greenville or its extraterritorial jurisdiction area; or

(2) Public enterprises, as defined in G.S. 160A-311, of a public or private entity other than the City of Greenville, if approved by the governing body of the entity, and if the enterprise is located within Pitt County.

Section 2. The City of Greenville and the Commission may charge appropriate fees for any expanded services offered pursuant to this act.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law on the date it was ratified.

H.B. 1134 **SESSION LAW 1999-234**

AN ACT TO ESTABLISH THE HORACE WILLIAMS CAMPUS TRUST FUND, TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE REVENUE BONDS FOR THE DEVELOPMENT OF THE HORACE WILLIAMS CAMPUS, TO EXEMPT THE

HORACE WILLIAMS CAMPUS FROM THE UMSTEAD ACT, AND TO MAKE VARIOUS CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-36.5 reads as rewritten:

"§ *116-36.5. Centennial Campus trust ~~fund.~~ fund; Horace Williams Campus trust fund.*

(a) All moneys received through development of the Centennial Campus of North Carolina State University at Raleigh, from whatever source, including the net proceeds from the lease or rental of Centennial Campus real property, shall be placed in a special, continuing, and nonreverting trust fund having the sole and exclusive use for further development of the Centennial Campus, including its operational development. This fund shall be treated in the manner of institutional trust funds as provided in G.S. 116-36.1. This fund shall be deemed an additional and alternative method of funding the Centennial Campus and not an exclusive one. For purposes of this section the term "Centennial Campus" is defined by G.S. 116-198.33(4). To the extent that any general, special, or local law is inconsistent with this section, it is declared inapplicable to this section.

(b) All moneys received through development of the Horace Williams Campus of the University of North Carolina at Chapel Hill, from whatever source, including the net proceeds from the lease or rental of Horace Williams Campus real property, shall be placed in a special, continuing, and nonreverting trust fund having the sole and exclusive use for further development of the Horace Williams Campus, including its operational development. This fund shall be treated in the manner of institutional trust funds as provided in G.S. 116-36.1. This fund shall be deemed an additional and alternative method of funding the Horace Williams Campus and not an exclusive one. For purposes of this section the term 'Horace Williams Campus' is defined by G.S. 116-198.33(4a). To the extent that any general, special, or local law is inconsistent with this section, it is declared inapplicable to this section."

Section 2. The title of Article 21B of Chapter 116 of the General Statutes reads as rewritten:

"Centennial Campus and Horace Williams Campus Financing Act."

Section 3. G.S. 116-198.31 reads as rewritten:

"§ *116-198.31. Purpose of Article.*

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue revenue bonds, payable from any leases, rentals, charges, fees, and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or part, of buildings, structures, or other facilities for the Centennial Campus, located at North Carolina State University at ~~Raleigh.~~ Raleigh and for the Horace Williams Campus located at the University of North Carolina at Chapel Hill."

Section 4. G.S. 116-198.33 reads as rewritten:

"§ *116-198.33. Definitions.*

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) The word 'Board' shall mean the Board of Governors of The University of North Carolina.

(2) The word 'cost' as applied to any project, shall include the cost of acquisition or construction; the cost of acquisition of all property, both real and personal, or interests therein; the cost of demolishing, removing, or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be removed or relocated; the cost of all labor, materials, equipment and furnishings, financing charges, interest prior to and during construction and, if deemed advisable by the Board, for a period not exceeding one year after completion of such construction; provisions for working capital, reserves for debt service and for extensions, enlargements, additions, and improvements; cost of engineering, financial, and legal services, plans, specifications, studies, surveys, and estimates of cost and of revenues; administrative expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses as may be necessary or incident to acquisition or construction with respect to the project or to the placing of the project in operation. Any obligation or expense incurred by the Board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(3) The word 'Institution' shall mean North Carolina State University at ~~Raleigh.~~ Raleigh and the University of North Carolina at Chapel Hill.

(4) The term 'Centennial Campus' means all of the following properties:

a. The real property and appurtenant facilities bounded by Blue Ridge Road, Hillsborough Street, Wade Avenue, and Interstate 440 that are the sites of the College of Veterinary Medicine, the University Club, and the Agricultural Turf Grass Management Program.

b. The real property and appurtenant facilities that are the former Dix Hospital properties and other contiguous parcels of property that are adjacent to Centennial Boulevard.

c. All other real property and appurtenant facilities designated by the Board of Governors as part of the Centennial Campus. The properties designated by the Board of Governors do not have to be contiguous with the

Centennial Campus to be designated as part of that Campus.

(4a) The term 'Horace Williams Campus' means all of the following properties:

a. The real property and appurtenant facilities left to the University of North Carolina at Chapel Hill by the Will of Henry Horace Williams.

b. All other real property and appurtenant facilities designated by the Board of Governors as part of the Horace Williams Campus. The properties designated by the Board of Governors do not have to be contiguous with the Horace Williams Campus to be designated as part of that Campus.

(5) The term 'existing facilities' shall mean buildings and facilities, then existing, any part of the revenues of which are pledged under the provisions of any resolution authorizing the issuance of revenue bonds hereunder to the payment of such bonds.

(6) The word 'project' shall mean and shall include any one or more buildings, structures, administration buildings, libraries, research or instructional facilities, housing maintenance, storage, or utility facilities, and any facilities related thereto or required or useful for conducting of research or the operation of the Centennial ~~Campus,~~ Campus or the Horace Williams Campus, including roads, water, sewer, power, gas, greenways, parking, or any other support facilities essential or convenient for the orderly conduct of the Centennial ~~Campus.~~ Campus or the Horace Williams Campus respectively.

(7) The word 'revenues' shall mean all or any part of the rents, leases, charges, fees, and other income revenues derived from or in connection with any project or projects and existing facilities."

Section 5. G.S. 116-198.34 reads as rewritten:

"§ *116-198.34. General powers of Board of Governors.*

The Board may exercise any one or more of the following powers:

(1) To determine the location and character of any project or projects, and to acquire, construct, and provide the same, and to maintain, repair, and operate, and to enter into contracts for the management, lease, use, or operation of all or any portion of any project or projects and any existing facilities.

(2) To issue revenue bonds as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same.

(3) To fix and revise from time to time and charge and collect rates, fees, rents, and charges for the use of, and for the services furnished by, all or any portion of any project or projects.

(4) To establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules and regulations for the use of and services rendered by any project or projects and any existing facilities, to provide for the maximum use of any project or projects and any existing facilities.

(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, a disposition by easement, lease, or rental agreement of space in any building on the Centennial Campus or on the Horace Williams Campus made for a period of 10 years or less shall not require the approval of the Governor and the Council of State. All other acquisitions and dispositions made under this subdivision are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

(6) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment in connection with any project or projects and existing facilities, and to fix their compensation.

(7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) To receive and accept from any federal, State, or other public agency and any private agency, person or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided.

(8a) To designate the real property and appurtenant facilities to be included as part of the Centennial ~~Campus.~~ Campus or the Horace Williams Campus.

(9) To do all acts and things necessary or convenient to carry out the powers granted by this Article."

Section 6. G.S. 116-198.35 reads as rewritten:

"*§ 116-198.35. Issuance of bonds and bond anticipation notes.*

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bonds of the Board for the purpose of paying all or any part of the

cost of acquiring, constructing, or providing any project or projects on the Centennial ~~Campus.~~ Campus or on the Horace Williams Campus. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the bonds. The Board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such bonds or any trust agreement securing the same. The bonds may be issued in coupon or registered form or both or as book-entry bonds, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, bonds may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

The Board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this section. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds.

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bond anticipation notes of the Board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Article. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes, or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any notes or coupons shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all such notes shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such notes or any trust agreement securing the bonds in anticipation of which such notes are being issued. The notes may be issued in coupon or registered form or both or as book entry notes, as the

Board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The Board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such notes or bonds or in the trust agreement securing such bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the bonds in anticipation of which such notes are being authorized, may also contain such limitations upon the issuance of additional notes as the Board may deem proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, notes may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context shall otherwise indicate, the word "bonds" wherever used in this Article, shall be deemed and construed to include the words 'bond anticipation notes'."

Section 7. G.S. 116-198.37 reads as rewritten:

"§ *116-198.37. Fixing fees, rents, and charges; sinking fund.*

For the purpose of aiding in the acquisition, construction, or provision of any project and the maintenance, repair, and operation of any project or any existing facilities, the Board is authorized to fix, revise from time to time, charge, and collect such fee or fees for such privileges and services and in such amount or amounts as the Board shall determine, and to fix, revise from time to time, charge, and collect other fees, rents, and charges for the use of and for the services furnished or to be furnished by any project or projects and any existing facilities, or any portion thereof, and to contract with any person, partnership, association, or corporation for the lease, use, occupancy, or operation of any project or projects and any existing facilities, or any part thereof, and to fix the terms, conditions, fees, rents, and charges for any such lease, use, occupancy, or operation. So long as bonds issued hereunder and payable therefrom are outstanding, such fees, rents, and charges shall be so fixed and adjusted, with relation to other revenues available therefor, as to provide funds pursuant to the requirements of the resolution or trust

agreement authorizing or securing such bonds at least sufficient with such other revenues, if any, (i) to pay the cost of maintaining, repairing, and operating any project or projects and any existing facilities any part of the revenues of which are pledged to the payment of the bonds issued for such project or projects, (ii) to pay the principal of and the interest on such bonds as the same shall become due and payable, and (iii) to create and maintain reserves for such purposes. Any surplus funds remaining after application to the purposes mentioned in (i), (ii), and (iii), above, shall be held in trust and applied by the Board to the development of the Centennial ~~Campus.~~ Campus or the Horace Williams Campus as applicable. Such fees, rents, and charges shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the State. A sufficient amount of the revenues, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the fees, rents, and charges and other revenues or other moneys so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same."

Section 8. G.S. 146-30(b1) reads as rewritten:

"(b1) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands that are designated as part of the Centennial Campus as defined by G.S. ~~116-198.33(4).~~ 116-198.33(4) or that are designated as part of the Horace Williams Campus as defined by G.S. 116-198.33(4a). All net proceeds of those dispositions are governed by G.S. 116-36.5."

Section 9. G.S. 66-58(b) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

(1) Counties and municipalities.
(2) The Department of Health and Human Services or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products.
(3) The Department of Administration, except that the agency shall not exceed the authority granted in the act creating the agency.
(4) The State hospitals for the mentally ill.
(5) The Department of Health and Human Services.
(6) The North Carolina School for the Blind at Raleigh.
(6a) The Office of Juvenile Justice.
(7) The North Carolina Schools for the Deaf.
(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the Centennial Campus of North Carolina State University at Raleigh, nor to the Horace Williams Campus of the University of North Carolina at Chapel Hill, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.
(9) The Department of Environment and Natural Resources, except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.
(10) Child-caring institutions or orphanages receiving State aid.
(11) Highlands School in Macon County.
(12) The North Carolina State Fair.

(13) Rural electric memberships corporations. (13a) State Farm Operations Commission.

(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services.

(14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided the leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.

(15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for the tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase the supplies.

(16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf.

The services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by the institutions and further limited to only flat

goods or apparel owned, distributed or controlled entirely by the institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

(17) The North Carolina Global TransPark Authority or a lessee of the Authority.

(18) The activities and products of private enterprise carried on or manufactured within a State prison facility pursuant to G.S. 148-70."

Section 10. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 3:39 p.m. on the 20th day of June, 1999.

S.B. 56 **SESSION LAW 1999-235**

AN ACT TO INCLUDE SERVICES IN THE DEFINITION OF ENERGY CONSERVATION MEASURES, TO EXTEND THE MAXIMUM DURATION OF A GUARANTEED ENERGY SAVINGS CONTRACT, AND TO REPEAL THE SUNSET REGARDING THE AUTHORITY OF A LOCAL GOVERNMENTAL UNIT TO ENTER INTO A GUARANTEED ENERGY SAVINGS CONTRACT FOR A LOCAL PUBLIC FACILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-64.17(1) reads as rewritten:

"(1) 'Energy conservation measure' means a facility ~~alteration or training~~ alteration, training, or services related to the operation of the ~~facility~~ facility, ~~that reduces energy consumption or operating costs and includes:~~ when the alteration, training, or services provide anticipated energy savings. Energy conservation measure includes any of the following:

a. Insulation of the building structure and systems within the ~~building;~~ building.

b. Storm windows or doors, caulking, weatherstripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated window or door systems, additional glazing, reductions in glass area, or other window or door system modifications that reduce energy ~~consumption;~~ consumption.

c. Automatic energy control ~~systems;~~ systems.

d. Heating, ventilating, or air-conditioning system modifications or ~~replacements;~~ replacements.

e. Replacement or modification of lighting fixtures to increase the energy efficiency of a lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable State or local building code or is required by the light system after the proposed modifications are ~~made;~~ made.

f. Energy recovery ~~systems;~~ systems.

g. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of ~~buildings; or~~ buildings.

h. Other energy conservation ~~measures that provide long-term operating cost reductions or significantly reduce energy consumed~~ measures."

Section 2. G.S. 143-64.17(2) reads as rewritten:

"(2) 'Energy savings' means a measured reduction in ~~fuel,~~ fuel costs, ~~energy,~~ energy costs, or operating costs created from the implementation of one or more energy conservation measures when compared with an established baseline of previous ~~fuel,~~ fuel costs, ~~energy,~~ energy costs, or operating costs developed by the local governmental unit."

Section 3. G.S. 143-64.17B(a) reads as rewritten:

"(a) A local governmental unit may enter into a guaranteed energy savings contract with a qualified provider if all of the following apply:

(1) The term of the contract does not exceed ~~eight~~ 12 years from the date of the installation and acceptance by the local governmental unit of the energy conservation measures provided for under the contract.

(2) The local governmental unit finds that the energy savings resulting from the performance of the contract will equal or exceed the total cost of the contract.

(3) The energy conservation measures to be installed under the contract are for an existing building."

Section 4. Section 10 of Chapter 775 of the 1993 Session Laws, as amended by Section 3 of Chapter 295 of the 1995 Session Laws, reads as rewritten:

~~"Sec. 10. A local governmental unit may not enter into a guaranteed energy savings contract under Part 2 of Article 3B of Chapter 143 of the General Statutes, as enacted by this act, on or after July 1, 1999."~~

Section 5. This act becomes effective July 1, 1999, and applies to contracts entered into on or after July 1, 1999.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 3:55 p.m. on the 30th day of June, 1999.

S.B. 271 **SESSION LAW 1999-236**

AN ACT TO ANNEX TO THE EXISTING CITY LIMITS OF THE TOWN OF HUNTERSVILLE CERTAIN AREAS SURROUNDED BY EXISTING CITY LIMITS OF THE TOWN OF HUNTERSVILLE.

The General Assembly of North Carolina enacts:

Whereas, there are areas and tracts of land not presently part of the Town of Huntersville but which are completely surrounded by the existing town limits of the Town of Huntersville; and

Whereas, the Town of Huntersville cannot provide police protection and other services to such areas, and any entity providing such services must travel through the Town of Huntersville to reach the areas in question; and

Whereas, in order to provide for the safety and welfare of the owners and residents of the affected areas, such areas should be and become part of the Town of Huntersville and be entitled to all of the services as are provided by the Town of Huntersville to other residents and property; Now, therefore,

Section 1. The corporate limits of the Town of Huntersville are extended to include the following described area:

TRACT I

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING on the existing town limits lines at the intersection of the northerly right-of-way of Gilead Road (SR 2136) and easterly right-of-way line of Commerce Center Drive, thence, with the easterly right-of-way line of Commerce Center Drive (1) with the arc of a circular curve to the right having a radius of 20 feet, an arc distance of 31.41 feet (and with a chord of N. 49-10-50W. 28.28 feet); (2) N. 04-10-50 W. 37 feet; (3) N. 07-02-34 W. 110.14 feet, a corner of lot bearing Mecklenburg Tax Code 017-121-33; thence with southerly line of said lot in an easterly direction 353.57 feet to a point on the line of Tax Parcel Number 017-121-03; thence with said lot N. 04-14-10 E. approximately 35.13 feet; thence N. 85-39-45 E. approximately 99 feet; thence in a southerly direction with the existing town limit line approximately 546.97 feet to the northerly right-of-way margin of Gilead Road; thence with said right-of-way in a westerly direction approximately 100 feet; thence along the new right-of-way margin in a northerly direction 20 feet; thence with said margin S. 85-49-10 W. 330 feet to the beginning, said property comprising Mecklenburg tax parcels 017-121-27 and portions of 017-121-03 and 04.

TRACT II

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING on the existing town limits line at the point of intersection of the southerly right-of-way margin of Huntersville-Concord Road and the centerline, as projected, of Glendale Drive; thence, with the centerline of Glendale Drive in a northerly direction to the point of intersection of the easterly right-of-way margin of Hunters Ridge Road, as projected; thence in a northerly direction with said easterly right-of-way margin and the front lot lines of lots 1 through 5 as shown on map in Map Book 21, page 960, Mecklenburg Registry, for a distance of approximately 807.07 feet, a course of the aforesaid lot 5; thence with line of lot 5 in an easterly direction 197.97 feet; thence with the rear lot lines of lots 5 through 1, approximately 841 feet; thence in a northerly direction 23.6 feet; thence in a southeasterly direction 206.14 feet to a point on the southerly right-of-way margin of Huntersville-Concord Road; thence with said right-of-way margin in a westerly direction 150 feet, more or less, the point of BEGINNING, said property comprising Mecklenburg Tax Parcel Numbers 019-282-03, 04, 05, 06, 07 and 019-262-14.

TRACT III

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING at a point on the northerly right-of-way margin of Glendale Road, the southwest corner of Lot 1, Map Book 21, Page 881, Mecklenburg Registry; thence N. 03-14-39 W. 278.28 feet; thence S. 86-27-16 W. 70.11 feet; thence S. 67-46-26 W. 159.56 feet; thence S. 10-32-46 W. 106.19 feet to a point on Glendale Drive; thence with Glendale Drive S. 66-11-89 E. 39.07 feet; thence S. 73-08-59 E. 99.86 feet; thence S. 67-09-09 E. 99.94 feet; thence S. 52-02-03 E. 37.81 feet to BEGINNING, said property consisting of Mecklenburg tax parcel 019-281-12.

TRACT IV

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING at a point on the existing town limits line on the northerly margin of Ramah Church Road (SR #2439), a common corner of tax parcels 011-013-37 and 011-181-01, thence northerly with said tax parcel 136.66 feet; thence northwesterly with said parcels 381.35 feet; thence with the line of tax parcel # 011-013-38 northeasterly 327.51 feet, thence continuing northeasterly 211.08 feet; then continuing with said tax parcel and parcel number 011-181-12 1238.74 feet; then continuing with tax parcel number 011-181-12

approximately 200 feet to tax parcel 011-181-04; thence with said tax parcel number southeasterly 610.14 feet; thence northeasterly 265.74 feet; thence continuing with said tax parcel number 480.09 feet to the northerly margin of Ramah Church Road; thence with the said northerly margin of Ramah Church Road in a westerly direction approximately 2,123.97 feet to the BEGINNING, comprising all of Mecklenburg tax parcel numbers 011-181-01; 011-181-03, 011-181-10, 011-181-11, and 011-181-13.

TRACT V

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING on the existing town limits line on the southerly margin of Hagers Road (SR 2438), the common line between tax parcel numbers 011-011-40 and 011-011-08; thence in a southerly direction with tax parcels 011-011-08 and 011-011-17, approximately 663.48 feet; thence in an easterly direction with tax parcel numbers 011-011-17 and 011-011-05, 1258.83 feet to SR 2438 at its terminus; then continuing easterly with tax parcel number 011-091-13, 546.56 feet; then continuing easterly with tax parcel number 011-171-03, 464.72 feet to a point, then southerly with tax parcel number 011-191-98, 616.92 feet; then westerly with tax parcel number 011-191-98, 520.14 feet and continuing 1225.28 feet; thence southerly with said tax parcel 1,056 feet, thence westerly on the line of tax parcel number 011-013-38 approximately 1068.80 feet; then continuing with tax parcel number 011-013-38 (1) southerly 350.77 feet, (2) easterly 193.54 feet, (3) southerly 117.46 feet, (4) southeasterly 291.67 feet, (5) southeasterly 131.97 feet, (6) westerly 309.31 feet, then continuing southerly with tax parcel number 011-013-38 and tax parcel number 011-013-85, 324.9 feet; thence southwesterly approximately 400 feet to the northeast corner of tax parcel number 011-013-24; then with tax parcel number 011-013-24 westerly, 143 feet, then southerly approximately 300 feet, then continuing with the existing town limits line in a westerly direction to a point at the northeast corner of tax parcel number 011-013-20; thence with the existing town limits in a northerly line generally along the purported right-of-way of the Norfolk Southern Railroad approximately 1489.69 feet, thence easterly to the centerline of said railroad approximately 35 feet; thence continuing northerly with said centerline approximately 2,713 feet to the southwest corner of tax parcel number 011-012-34; thence easterly with said tax parcel 1028.28 feet; thence northerly approximately 945.57 feet to the southerly margin of Hagers Road, then with said southerly margin in a generally easterly direction approximately 700 feet to the BEGINNING point, comprising all or part of tax parcel numbers:

011-011-02	011-012-29	011-013-47
011-011-03	011-012-30	011-191-28

011-011-04	011-012-31	011-191-29
011-011-10	011-012-32	011-191-31
011-011-11	011-012-35	011-191-32
011-011-14	011-013-02	011-191-35
011-011-19	011-013-26	011-191-36
011-011-39	011-013-28	011-191-37
011-011-40	011-013-39	011-191-34
011-012-01	011-013-40	
011-012-02	011-013-41	
011-012-03	011-013-42	
011-012-04	011-013-43	
011-012-05	011-013-44	
011-012-27	011-013-45	
011-012-28	011-013-46	

Section 2. From and after the effective date of this act, the subject areas shall be entitled to those services in the same manner that the Town of Huntersville provides to its residents and property lying therein, and the residents of such areas shall be entitled to all of the privileges, rights, and obligations of other residents of the Town of Huntersville.

Section 3. This act becomes effective at midnight, June 30, 1999.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law on the date it was ratified.

H.B. 168 **SESSION LAW 1999-237**

AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

Section 1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

TITLE OF ACT

Section 1.1. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 1999."

PART II. CURRENT OPERATIONS/GENERAL FUND

Section 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 2001, according to the following schedule:

	1999-2000	2000-2001
General Assembly	$ 34,980,575	$ 39,518,408
Office of the Governor:		
01. Office of the Governor	5,263,364	5,282,172
02. Office of State Budget and Management	4,146,118	4,247,782
03. Office of State Planning	2,147,099	2,147,099
04. Special Appropriations	5,655,000	3,080,000
Office of Lieutenant Governor	640,485	640,485
Department of Secretary of State	6,688,118	6,455,933
Department of State Auditor	11,614,631	11,608,041
Department of State Treasurer		
01. State Treasurer	6,810,844	6,568,253
02. Special Appropriations	12,294,780	12,294,780
Department of Insurance		
01. Insurance	22,008,763	21,599,037
02. Special Appropriations	4,500,000	4,500,000
Department of Administration	60,947,632	60,089,326
Office of State Controller	11,482,568	11,488,315
Office of Administrative Hearings	2,757,199	2,786,455
Rules Review Commission	317,343	309,326
Department of Cultural Resources		
01. Cultural Resources	69,888,077	58,182,464
02. Roanoke Island Commission	1,826,157	1,826,157
Department of Revenue	79,017,984	75,505,633
State Board of Elections	3,199,660	3,199,660

Judicial Department	340,410,625	347,361,291
Office of Juvenile Justice	135,991,466	140,018,378
Department of Justice	73,151,122	72,575,950
Department of Correction	891,377,319	889,943,525
Department of Crime Control and Public Safety	36,791,794	36,267,844
Department of Health and Human Services		
01. DHHS - Administration and Support	93,086,130	89,806,803
02. Division of Aging	30,042,117	29,792,117
03. Division of Child Development	286,012,727	305,441,553
04. Division of Services for the Deaf and Hard of Hearing	31,604,083	31,989,549
05. Division of Social Services	150,394,120	185,459,375
06. Division of Medical Assistance	1,348,453,847	1,539,549,270
07. Division of Services for the Blind	17,462,992	17,455,155
08. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	614,290,187	607,658,021
09. Division of Facility Services	10,937,289	11,198,856
10. Division of Vocational Rehabilitation Services	39,041,887	38,256,403
11. Division of Public Health	133,361,183	131,979,059
12. North Carolina Health Choice	22,092,346	25,509,475
Total Department of Health and Human Services	2,776,778,908	3,014,095,636
Department of Public Education	5,262,627,676	5,277,518,248
Community Colleges System Office	579,803,851	591,015,693
University of North Carolina - Board of Governors		
01. General Administration	41,659,202	42,077,020
02. University Institutional Programs	94,684,274	92,064,402
03. Related Educational Programs	85,975,006	88,964,245

04. University of North Carolina at Chapel Hill		
a. Academic Affairs	177,293,233	177,575,523
b. Health Affairs	144,910,088	145,843,687
c. Area Health Education Centers	44,094,068	44,116,310
05. North Carolina State University at Raleigh		
a. Academic Affairs	234,331,766	235,906,137
b. Agricultural Research Service	45,549,404	45,422,994
c. Agricultural Extension Service	36,031,921	35,969,822
06. University of North Carolina at Greensboro	78,810,304	79,052,368
07. University of North Carolina at Charlotte	83,166,903	83,378,506
08. University of North Carolina at Asheville	22,017,704	22,061,697
09. University of North Carolina at Wilmington	49,957,856	50,325,018
10. East Carolina University		
a. Academic Affairs	101,589,323	101,704,564
b. Division of Health Affairs	41,109,992	44,107,886
11. North Carolina Agricultural and Technical State University	53,492,454	53,491,976
12. Western Carolina University	47,364,534	47,539,139
13. Appalachian State University	72,063,889	74,072,087
14. University of North Carolina at Pembroke	20,456,907	20,452,780
15. Winston-Salem State University	24,000,509	24,147,742
16. Elizabeth City State University	19,279,750	19,342,413
17. Fayetteville State University	25,992,535	26,012,535
18. North Carolina Central University	39,206,985	39,048,808
19. North Carolina School of the Arts	14,463,446	14,710,424
20. North Carolina School of Science and Mathematics	10,391,245	10,432,372
21. University of North Carolina Hospitals at Chapel Hill	36,351,025	39,042,772

Total University of North Carolina	1,644,244,323	1,656,863,227
Office of the Governor - Housing Finance	11,300,000	5,300,000
Department of Agriculture and Consumer Services	56,813,419	54,146,601
Department of Labor	16,469,251	16,369,251
Department of Environment and Natural Resources	156,016,907	157,700,273
Department of Commerce		
01. Commerce	47,198,448	43,745,365
02. State Aid to Non-State Entities	11,100,000	5,200,000
03. Rural Economic Development Center	7,257,338	4,257,338
04. Biotechnology Center	9,638,913	7,638,913
05. State Information Processing Services	3,596,000	-0-
Department of Transportation	20,973,881	15,434,165
Contingency and Emergency	1,125,000	1,125,000
Welfare Reform	412,503	412,503
Reserve for Compensation Increase - 1998-99 continued	63,627,578	63,627,578
Reserve for Compensation Increase - 1999-2000	397,600,000	397,600,000
Reserve for Compensation Bonus	16,400,000	-0-
Reserve for SPA Minimum Salary	100,000	100,000
Reserve for Salary Adjustments	3,944,303	4,444,303
Reserve for Consolidated Mail Services	(1,000,000)	(1,500,000)
Reserve for Judicial Retirement Adjustment	(900,000)	(900,000)
Reserve for Positions Vacated by Retirement	(12,709,439)	(12,709,439)

Reserve for State Health Plan	110,000,000	147,000,000
Reserve for Retirees Health Benefits	(144,000,000)	-0-
Debt Service		
01. Debt Service	191,910,930	290,709,550
02. Federal Reimbursement	1,155,948	1,155,948
GRAND TOTAL CURRENT OPERATIONS - GENERAL FUND	$ 13,055,394,461	$ 13,557,846,467

PART III. CURRENT OPERATIONS AND EXPANSION/ HIGHWAY FUND

Section 3. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2001, according to the following schedule:

Current Operations - Highway Fund	1999-2000	2000-2001
Department of Transportation		
01. Administration	64,405,831	64,409,242
02. Operations	36,476,296	36,495,582
03. Construction and Maintenance		
a. Construction		
(01) Primary Construction	-	-
(02) Secondary Construction	84,777,000	87,710,000
(03) Urban Construction	14,000,000	14,000,000
(04) Access and Public Service Roads	2,000,000	2,000,000
(05) Discretionary Fund	10,000,000	10,000,000
(06) Spot Safety Construction	9,100,000	9,100,000
b. State Funds to Match Federal Highway Aid	3,856,821	3,856,821
c. State Maintenance	463,069,469	462,069,469
d. Ferry Operations	18,174,622	18,174,622
e. Capital Improvements	-0-	-0-
f. State Aid to Municipalities	84,777,000	87,710,000
g. State Aid for Public Transportation and Railroads	57,081,326	54,554,009
h. OSHA - State	425,000	425,000
04. Governor's Highway Safety Program	338,121	338,121
05. Division of Motor Vehicles	91,133,577	92,987,232
06. Reserves and Transfers	215,074,937	237,579,902
GRAND TOTAL CURRENT OPERATIONS		

AND EXPANSION	1,154,690,000	1,181,410,000

PART IV. HIGHWAY TRUST FUND

Section 4. Appropriations from the Highway Trust Fund are made for the fiscal biennium ending June 30, 2001, according to the following schedule:

Highway Trust Fund	1999-2000	2000-2001
01. Intrastate System	401,102,481	419,674,677
02. Secondary Roads Construction	75,899,292	78,524,234
03. Urban Loops	162,189,139	169,698,962
04. State Aid - Municipalities	42,085,006	44,033,663
05. Program Administration	28,768,082	30,128,464
06. Transfer to General Fund	170,000,000	170,000,000
GRAND TOTAL - HIGHWAY TRUST FUND	880,044,000	912,060,000

PART V. BLOCK GRANT FUNDS

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

DHHS BLOCK GRANT PROVISIONS

Section 5.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2000, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT	
01. Community Action Agencies	$ 11,827,604
02. Limited Purpose Agencies	651,534
03. Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	551,534
TOTAL COMMUNITY SERVICES BLOCK GRANT	$ 13,030,672
SOCIAL SERVICES BLOCK GRANT	
01. County departments of social services (Transfer from TANF - $4,500,000)	$ 30,395,663
02. Allocation for in-home services provided by county departments of social services	2,101,113

03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	4,764,124
04.	Division of Services for the Blind	3,205,711
05.	Office of Juvenile Justice	950,674
06.	Division of Facility Services	343,341
07.	Division of Aging - Home and Community Care Block Grant	1,915,234
08.	Transfer from TANF Block Grant for Child Care Subsidies	10,971,241
09.	Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
10.	State administration	1,954,237
11.	Child Medical Evaluation Program	238,321
12.	Adult day care services	2,255,301
13.	County departments of social services for child abuse prevention and permanency planning	394,841
14.	Transfer to Preventive Health Services Block Grant for emergency medical services	213,128
15.	Transfer to Preventive Health Services Block Grant for AIDS education, counseling, and testing	66,939
16.	Department of Administration for the N.C. Commission of Indian Affairs In-Home Services Program for the elderly	203,198
17.	Division of Vocational Rehabilitation - Easter Seals Society	116,779
18.	UNC-CH CARES Program for training and consultation services	247,920
19.	Transfer from TANF Block Grant for Allocation to the Adolescent Pregnancy Prevention Program	239,261
20.	Office of the Secretary - Office of Economic	

	Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
21.	County departments of social services for child welfare improvements (Transfer from TANF - $300,000)	2,211,687
22.	Transfer from TANF Block Grant for Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for juvenile offenders	1,182,280
23.	Transfer from TANF Block Grant for Enhanced Employee Assistance Program	1,000,000
24.	Transfer from TANF Block Grant for Division of Social Services - Child Caring Agencies	1,500,000
25.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services - Developmentally Disabled Waiting List for services	5,000,000
26.	Transfer from TANF Block Grant to Enhance Special Children Adoption Fund	1,900,000
27.	Transfer from TANF Block Grant for Local County Child Welfare Workers	1,427,550
TOTAL SOCIAL SERVICES BLOCK GRANT		$ 74,911,329

LOW-INCOME ENERGY BLOCK GRANT

01.	Energy Assistance Programs	$ 7,530,047
02.	Crisis Intervention	7,370,681
03.	Administration	1,992,076
04.	Department of Commerce - Weatherization Program	2,988,114
05.	Department of Administration - N.C. Commission of Indian Affairs	39,841
TOTAL LOW-INCOME ENERGY BLOCK GRANT		$ 19,920,759

MENTAL HEALTH SERVICES BLOCK GRANT	
01. Provision of community-based services in accordance with the Mental Health Study Commission's Adult Severe and Persistently Mentally Ill Plan	$ 3,895,179
02. Provision of community-based services in accordance with the Mental Health Study Commission's Child Mental Health Plan	1,913,917
03. Administration	689,735
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	$ 6,498,831
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
01. Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol, Drug Abuse Treatment Centers	$ 15,350,132
02. Continuation of services for pregnant women and women with dependent children	6,567,532
03. Continuation and expansion of services to IV drug abusers and others at risk for HIV diseases	5,390,497
04. Provision of services in accordance with the Mental Health Study Commission's Child and Adolescent Alcohol and Other Drug Abuse Plan	7,454,702
05. Juvenile Services - Family Focus	893,811
06. Juvenile offender services and substance abuse pilot	300,000
07. Administration	2,623,049
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	$ 38,579,723

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

01.	Child care subsidies	$112,624,103
02.	Quality and availability initiatives	11,378,046
03.	Administrative expenses	6,526,429
04.	Transfer from TANF Block Grant for child care subsidies	51,669,460
05.	Transfer from TANF Block Grant for child care rate increases and quality initiatives	12,482,188

TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT $194,680,226

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT

01.	Work First Cash Assistance	
	Standard Counties	$ 133,436,855
	Electing Counties	43,787,170
02.	Work First County Block Grants	62,086,434
03.	Transfer to the Child Care and Development Fund Block Grant for child care subsidies	51,669,460
04.	Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for Work First substance abuse screening, diagnostic, and support treatment services and drug testing	3,500,000
05.	Allocation to the Division of Social Services for Work First Evaluation	1,000,000
06.	Allocation to the Division of Social Services for staff development	500,000
07.	Reduction of out-of-wedlock births	1,600,000
08.	Transfer to the Social Services Block Grant for substance abuse services for juveniles	1,182,280
09.	Transfer to the Social Services Block Grant	

	for the Special Children Adoption Fund	2,200,000
10.	Employment Security Commission - First Stop Employment Assistance	4,100,000
11.	Transfer to Social Services Block Grant - Enhanced Employee Assistance Program	1,000,000
12.	Work First Job Retention and Follow-Up Initiatives	1,677,529
13.	Allocation to the Division of Public Health for teen pregnancy prevention	2,000,000
14.	Transfer to Social Services Block Grant for Child Caring Agencies	1,500,000
15.	Child Care Subsidies for TANF Recipients	15,000,000
16.	Work First Business Council	100,000
17.	Work First Housing Initiative	3,000,000
18.	Transfer to Child Care and Development Fund Block Grant for Child Care Rate Increases	12,482,188
19.	Allocation to the Division of Social Services for Domestic Violence	1,000,000
20.	Implementation of HB 1159 - Protection from Violent Caregivers	160,000
21.	Transfer to Social Services Block Grant for Additional County Foster Care and Adoption Workers	1,427,550
22.	Intensive Family Preservation Program Expansion	2,000,000
23.	Contract for MOE Analysis and Assistance	500,000
24.	Work First/Boys and Girls Clubs	1,000,000
25.	Community Colleges - Enhanced Pathways	500,000
26.	Transfer to Social Services Block Grant for Child Care Subsidies	10,971,241
27.	Transfer to Social Services Block Grant for	

County Departments of Social Services for Children's Services	4,500,000
28. Transfer to Social Services Block Grant for Adolescent Pregnancy Prevention Program	239,261
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT	$364,119,968

MATERNAL AND CHILD HEALTH BLOCK GRANT

01. Healthy Mothers/Healthy Children Block Grants to Local Health Departments	$ 9,838,074
02. High Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	1,910,747
03. Services to Children With Special Health Care Needs	5,035,209
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	$ 16,784,030

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01. Transfer from Social Services Block Grant - Emergency Medical Services	$ 213,128
02. Hypertension and Statewide Health Promotion Programs	3,364,469
03. Dental Health for Fluoridation of Water Supplies	216,123
04. Rape Prevention and Rape Crisis Programs	190,134
05. Rape Prevention and Rape Education	1,159,292
06. Transfer from Social Services Block Grant - AIDS/HIV Education, Counseling, and Testing	66,939

07. Office of Minority Health and Minority Health Council	179,784
08. Administrative and Indirect Cost	209,914
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	$ 5,599,783

Section 5.(b) Decreases in Federal Fund Availability. -- If the United States Congress reduces federal fund availability in the Social Services Block Grant below the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law, then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State-mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF for specified purposes in any calculations of reductions to the Social Services Block Grant.

If the United States Congress reduces the amount of TANF funds below the amounts appropriated in this section after the effective date of this act, then the Department shall allocate the decrease in funds after considering any underutilization of the budget and the effectiveness of the current level of services. Any TANF Block Grant fund changes shall be reported to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

The Department of Health and Human Services shall make a report in collaboration with all other State and local agencies and public and private entities (i) that are impacted by the Social Services or TANF Block Grants and (ii) that will be affected by future reductions in either of these block grants detailing plans for dealing with future reductions or adjustments in either of these block grants, including plans for programs funded wholly or in part with transfers from the TANF Block Grant.

Decreases in federal fund availability shall be allocated for the Maternal and Child Health and Preventive Health Services federal block grants by the Department of Health and Human Services after considering the effectiveness of the current level of services.

Section 5.(c) Increases in Federal Fund Availability. -- Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, with the approval of the Office of State Budget and Management, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

Section 5.(d) Changes to the budgeted allocations to the block grants appropriated in this act due to decreases or increases in federal funds shall be reported immediately to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Section 5.(e) Limitations on Preventive Health Services Block Grant Funds. -- Twenty-five percent (25%) of funds allocated for Rape Prevention and Rape Education shall be allocated as grants to nonprofit organizations to provide rape prevention and education programs targeted for middle, junior high, and high school students.

If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 1999-2000 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

Section 5.(f) The sum of one million dollars ($1,000,000) appropriated to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 1999-2000 fiscal year for the evaluation of the Work First Program shall be used to do each of the following:

(1) Expand the current evaluation of the Work First Program to assess former recipients' earnings, barriers to advancement to economic self-sufficiency, utilization of community support services, and other longitudinal employment data. Assessment periods shall include six and 18 months following closure of the case.

(2) Expand the current evaluation of the Work First Program to profile the State's child-only caseload to include indicators of economic and social well-being, academic and behavioral performance, demographic data, description of living arrangements including length of placement out of the home, social and other human services provided to families, and other information needed to assess the needs of the child-only Work First Family Assistance clients and families.

(3) Expand the current evaluation to profile clients and families exempted from federal and State work participation requirements. The evaluation shall include an assessment of the client and family needs including why clients and families have been exempted.

The Department of Health and Human Services shall make a report on its progress in complying with this subsection to the Senate Appropriations Committee on Human Resources, the House of

Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than May 1, 2000.

Section 5.(g) The sum of one million six hundred seventy-seven thousand five hundred twenty-nine dollars ($1,677,529) appropriated to the Department of Health and Human Services, Division of Social Services, in this section in the TANF Block Grant in the 1999-2000 fiscal year for the Work First job retention and follow-up model programs shall be used to implement pilots and strategies that support TANF recipients in attaining and maintaining self-sufficiency through job retention, family support services, and pre- and post-TANF follow-up.

The Department of Health and Human Services shall make a report on its use of TANF funds for the Work First job retention pilots. This report shall include each of the following:

(1) A description of the clients served by the program. This description shall include demographic and geographic information about the clients.
(2) A description of services provided by the program.
(3) The effectiveness of services to clients. Effectiveness of services to clients shall be measured, in part, by the percentage of clients who remain employed at intervals of six months and one year after commencement of employment.
(4) The estimated cost of services per client.
(5) A description of the development and design of the program and of any evaluation mechanisms.
(6) A description of coordination efforts among local departments of social services with other human services agencies.
(7) A description of progress in achieving other outcome goals such as family economic progress and child/family well-being.

This report shall be made to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than May 1, 2000.

Section 5.(h) The sum of two million dollars ($2,000,000) appropriated to the Department of Health and Human Services, Division of Public Health, in this section in the TANF Block Grant for the 1999-2000 fiscal year for teen pregnancy prevention shall be used to develop and implement local programs and initiatives aimed at reducing teen pregnancy. The programs developed with these funds shall be based on model programs that have been proven successful by extensive evaluation. The programs and initiatives shall include:

(1) Adolescent parenting programs.
(2) Adolescent pregnancy prevention programs.
(3) Local coalition programs combining adolescent parenting and adolescent pregnancy prevention components.
(4) Teen care coordination projects.
(5) A media campaign to raise awareness of teens and their parents.

The Department of Health and Human Services shall report on the use of these funds and the effectiveness of the funded programs and initiatives in reducing teen pregnancy to the Senate Appropriations Committee on Human

Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2000.

Section 5.(i) The sum of two million eight hundred eleven thousand six hundred eighty-seven dollars ($2,811,687) appropriated in this section (i) in the Social Services Block Grant and (ii) in the TANF Block Grant transferred to the Social Services Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 1999-2000 fiscal year shall be used to implement this subsection. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies and licensed child caring agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies and licensed child caring agencies upon successful placement for adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

Section 5.(j) If funds appropriated through the Child Care and Development Fund for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to other programs, in accordance with federal requirements of the grant, in order to use the federal funds fully.

Section 5.(k) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this act in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for Child Caring Agencies for the 1999-2000 fiscal year shall be allocated to the State Private Child Caring Agencies Fund. These funds shall be combined with all other funds allocated to the State Private Child Caring Agencies Fund for the reimbursement of the State's portion of the cost of care for the placement of certain children by the county departments of social services who are not eligible for federal IV-E funds. These funds shall not be used to match other federal funds.

Section 5.(l) The sum of one million dollars ($1,000,000) appropriated in this section in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall be used for the Enhanced Employee Assistance Program, to continue a grant program of financial incentives for private businesses employing former and current Work First recipients. These grants may supply funds to private employers who agree to hire former or current Work First recipients or their spouses at entry-level positions and wages and to supply enhanced grant funds to private employers who agree to hire former or current Work First recipients or their spouses at a level higher than entry-level position, paying more than the minimum wage, including fringe benefits.

Section 5.(m) The sum of one million four hundred twenty-seven thousand five hundred fifty dollars ($1,427,550) appropriated in this act in the TANF Block Grant transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 1999-2000 fiscal year for Child Welfare Improvements shall be allocated to the county departments of social services for hiring or contracting additional staff on or after January 1, 2000, to recruit, train, license, and support prospective foster and adoptive families, and to provide interstate and post-adoption services.

Section 5.(n) The sum of two million dollars ($2,000,000) appropriated in this act in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 1999-2000 fiscal year for the Intensive Family Preservation Services (IFPS) Program shall be used by the Division, in consultation with local departments of social services and other human services agencies, to plan and implement a revised IFPS Program.

Notwithstanding the provisions of G.S. 143B-150.6, the Program shall provide intensive services to children and families in cases of neglect and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented on a regional basis in areas of high foster care placements as compared to the numbers of children substantiated for abuse, neglect, or dependency. The revised IFPS Program shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

The Department shall reexamine the existing IFPS Program design to ensure the application of a standardized assessment of imminent risk and clear criteria for placement. Additionally, the Department shall assess the education and skill levels required of staff providing intensive family preservation services in existing programs.

The Department shall develop a revised evaluation model for the current and expanded IFPS Program. This evaluation shall not include area mental health or juvenile justice programs. The model shall be scientifically rigorous, including the use of treatment control groups, a review and description of interventions provided to families as compared to customary services provided to other child welfare children and families, and data regarding the number and type of referrals made for other human services and the utilization of those services.

The Department may use funds appropriated under this subsection to establish up to three additional staff positions in the Division of Social Services for the IFPS Program.

The Department shall report on the use of the funds appropriated under this subsection, including the revised evaluation model and IFPS Program, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than May 1, 2000.

Section 5.(o) The Department of Health and Human Services and the Employment Security Commission shall report on the use of funds

appropriated under this section from the TANF Block Grant to the First Stop Employment Assistance Program. This report shall include each of the following:

(1) The number of clients served since the inception of the program by fiscal year.
(2) The amount of funds expended each fiscal year.
(3) A description of the clients served. This description shall include demographic information about these clients.
(4) A description of coordination efforts with other human services agencies, including local departments of social services.
(5) A description of specific services provided to both initial and intensive First Stop clients.
(6) The placement rates of clients in both the initial and intensive programs.
(7) Statistics related to job retention, measured at least at intervals of six months and one year after the commencement of employment.
(8) Statistics related to the wage history of clients.
(9) Any other information the Department and the Employment Security Commission find relevant to an evaluation of the program.

This report shall be made to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than May 1, 2000.

Section 5.(p) The sum of one million dollars ($1,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall develop and implement a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youth and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. Additionally, in developing the grant program, the Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate. The Department shall report on its progress in complying with this subsection to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later that May 1, 2000.

Section 5.(q) The sum of one million dollars ($1,000,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, for domestic violence programs shall be used to develop and implement a grant program to support programs which provide domestic violence services and to support programs aimed at preventing domestic violence. The Department, in consultation with the North Carolina Council for Women, the Governor's Crime Commission, local domestic violence programs, and other human services programs, shall

develop a process to award grants to community-based organizations that demonstrate the ability to collaborate and coordinate services with other local human service organizations to serve children and families where domestic violence has occurred or is occurring. The Department shall report to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on its use of these funds no later than May 1, 2000.

Section 5.(r) G.S. 143-16.1(b) reads as rewritten:

"(b) The Secretary of each State agency that receives and administers federal Block Grant funds shall prepare and submit the agency's Block Grant plans to the Fiscal Research Division of the General Assembly not later than February 20 of each odd-numbered calendar year and not later than April 20 of each ~~fiscal~~ even-numbered calendar year. The agency shall submit a separate Block Grant plan for each Block Grant received and administered by the agency, and each plan shall include, but not be limited to, the following:

(1) A delineation of the proposed dollar amount allocations by activity and by category, including dollar amounts to be used for administrative costs; and

(2) A comparison of the proposed funding with two prior years' program budgets.

The Director of the Budget shall review for accuracy, consistency, and uniformity each State agency's Block Grant plans prior to submission of the plans to the General Assembly."

Section 5.(s) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

NER BLOCK GRANT FUNDS

Section 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2000, according to the following schedule:

WELFARE TO WORK BLOCK GRANT	$ 23,663,882
COMMUNITY DEVELOPMENT BLOCK GRANT	
01. State Administration	1,000,000
02. Urgent Needs and Contingency	1,306,500
03. Community Empowerment	871,000
04. Economic Development	8,710,000

05. Community Revitalization	20,033,000
06. State Technical Assistance	450,000
07. Housing Development	3,484,000
08. Infrastructure	9,145,500
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT - 2000 Program Year	$ 45,000,000

Section 5.1.(b) Decreases in Federal Fund Availability. -- Decreases in federal fund availability for the Community Development Block Grants. -- If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

Section 5.1.(c) Increases in Federal Fund Availability for Community Development Block Grant. --

Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: -- Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

Section 5.1.(d) Limitations on Community Development Block Grant Funds. -- Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars ($1,000,000) may be used for State administration; up to one million three hundred six thousand five hundred dollars ($1,306,500) may be used for Urgent Needs and Contingency; up to eight hundred seventy-one thousand dollars ($871,000) may be used for Community Empowerment; up to eight million seven hundred ten thousand dollars ($8,710,000) may be used for Economic Development; not less than twenty million thirty-three thousand dollars ($20,033,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars ($450,000) may be used for State Technical Assistance; up to three million four hundred eighty-four thousand dollars ($3,484,000) may be used for Housing Development; up to nine million one hundred forty-five thousand dollars ($9,145,000) may be used for infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

Section 5.1.(e) Increase Capacity for Nonprofit Organizations. -- Assistance to increase capacity for nonprofit organizations to carry out eligible activities with units of local government is an allowable activity under any program category, in accordance with federal regulations. Community Empowerment

category funds not obligated as of December 31, 1999, may be used to fund assistance to increase capacity for projects in any category.

Section 5.1.(f) Welfare to Work Block Grant. -- The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services may identify within their respective budgets sources of State funds which may be used as a match for the federal Welfare-to-Work Block Grant.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

COMMUNITY DEVELOPMENT BLOCK GRANT/CHANGES TO PREVIOUS BLOCK GRANT PLANS

Section 5.2. Notwithstanding any other provision of law, Community Development Block Grant funds allocated pursuant to Section 5.1 of S.L. 1998-212 which represent an increase in the State's federal grant shall be allocated in a manner to ensure that twenty percent (20%) of such funds are allocated to the Economic Development program category. The remaining increase in federal grant funds, and funds not obligated under any Block Grant category at the close of the 1998 program year, may be allocated to the Housing Development program category.

PART VI. GENERAL FUND AND HIGHWAY FUND AVAILABILITY STATEMENTS

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

GENERAL FUND AVAILABILITY STATEMENT

Section 6.(a) The General Fund availability used in developing the 1999-2001, biennial budget is shown below:

	1999-2000 ($ Millions)	2000-2001 ($ Millions)
Budget Reform Statement		
(01) Composition of the 1999-2000 beginning availability:		
a. Unappropriated balance	0.2	
b. Revenue collections in 1998-99 in excess of authorized estimates	333.9	
c. Unexpended appropriations during 1998-99	106.3	
Subtotal	440.4	
d. Transfer to Reserve for Repairs and Renovations	(150.00)	
e. Transfer to Clean Water Management Trust Fund	(30.0)	
f. Transfer to Savings Reserve --- Ending Fund Balance	260.4	

(02)	Beginning Unrestricted Fund Balance	260.4	0.0
	Revenues Based on Existing Tax Structure	12,368.4	13,105.0
	Revenues - Gains on Asset Sale (RJR)	69.0	---
	Nontax Revenues	523.8	550.5
	Disproportionate Share Receipts	105.0	105.0
	Transfer from Highway Trust Fund	170.0	170.0
	Transfer from Highway Fund	13.6	13.8
	Subtotal	13,249.7	13,944.3
	Transfer from Disproportionate Share Receipts Reserve	20.0	0.0
	Transfer from Flexible Benefit Reserve	1.3	0.0
Total Availability		13,531.5	13,944.3

Section 6.(b) The State Controller shall transfer from the Flexible Benefits Reserve to the General Fund nontax revenues the sum of one million two hundred seventy-three thousand dollars ($1,273,000) during fiscal year 1999-2000.

Section 6.(c) There is transferred from General Fund availability for the 1999-2000 fiscal year to the Department of State Treasurer, Reserve for the Bailey/Emory/Patton Cases Refunds, the sum of three hundred ninety-nine million dollars ($399,000,000). These funds are hereby appropriated and shall be held in reserve and allocated pursuant to the Consent Order entered in the Bailey/Emory/Patton cases, 92 CVS 10221, 94 CVS 06904, 95 CVS 06625, 95 CVS 08230, 98 CVS 00738, and 95 CVS 04346, in Wake County Superior Court on 10 June 1998.

Section 6.(d) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the 1998-1999 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account. This subsection becomes effective June 30, 1999.

Section 6.(e) Disproportionate Share Receipts reserved at the end of the 1998-99 fiscal year shall be deposited with the Department of State Treasurer as a nontax revenue for the 1999-2000 fiscal year.

Section 6.(f) For the 1999-2000 and 2000-2001 fiscal years, as it receives funds associated with Disproportionate Share Payments from the State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred five million dollars ($105,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenues. Any Disproportionate Share Payments collected in excess of the one hundred five million dollars ($105,000,000) shall be reserved by the State Treasurer for future appropriations.

Section 6.(g) G.S. 143-15.3C reads as rewritten:

"*§ 143-15.3C. Work First Reserve Fund.*

(a) The State Controller shall establish a restricted reserve in the General Fund to be known as the Work First Reserve Fund. Funds

from the Work First Reserve Fund shall not be expended until appropriated by the General Assembly. ~~At the end of each fiscal year, the State Controller shall reserve State funds into this reserve in an amount equalling one-fourth of any Work First Program funds from State General Fund appropriations remaining unexpended at the end of the fiscal year, up to a maximum balance in the account of fifty million dollars ($50,000,000). The General Assembly may appropriate additional funds into this reserve.~~

~~(b) Funds in the Work First Reserve Fund shall be used only for the purposes described in Title IV of the Social Security Act and only as provided in G.S. 108A-27.16.~~

~~(c) The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Public Assistance Commission, and the House and Senate Appropriations Subcommittees on Human Resources prior to using the funds described in subsection (a) of this section.~~"

Section 6.(h) G.S. 108A-27.16 is repealed.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

HIGHWAY FUND AVAILABILITY

Section 6.1. The Highway Fund appropriations availability used in developing the 1999-2001 biennial Highway Fund budget is shown below:

	1999-2000	2000-2001
Beginning Credit Balance	-	-
Estimated Revenue	1,149,490,000	1,194,410,000
Additional Reversions	5,200,000	-
TOTAL HIGHWAY FUND AVAILABILITY	$1,154,690,000	$1,194,410,000

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

STUDY HOMESTEAD EXEMPTION

Section 6.2. The General Assembly shall study options for providing homestead property tax relief to low-income elderly and disabled citizens. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall designate an appropriate committee to conduct the study. The study shall include consideration of all of the following options: increasing the homestead exemption amount, increasing the income threshold for qualifying for the exemption, indexing the exemption amount and income threshold, excluding social security from income in determining the income threshold, and amending the North Carolina Constitution to allow counties the option of making one or more of these changes on a local level. The committee shall report its findings and recommendations to the General Assembly by May 1, 2000. Any proposals recommended

in the report shall be accompanied by an estimate of their fiscal impact on the State and on local governments.

PART VII. GENERAL PROVISIONS

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL RECEIPTS/AUTHORIZATION FOR EXPENDITURES

Section 7.(a) There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts, and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute, and shall be expended at the level of service authorized by the General Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the excess, unless the Director of the Budget finds that the appropriations from the Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund.

Funds that become available from overrealized receipts in General Fund Codes and Highway Fund Codes may be used for new permanent employee positions or to raise the salary of existing employees only as follows:

(1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or

(2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the chairmen of the appropriations committees of the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reason the positions are necessary to maintain the function.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter the General Fund Codes or

Highway Fund Codes that did not result in a corresponding reduced allotment from appropriations from that Fund.

Section 7.(b) The Director of the Budget shall develop necessary budget controls, regulations, and systems to ensure that these funds and other State funds subject to the Executive Budget Act, are not spent in a manner which would cause a deficit in expenditures.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

INSURANCE AND FIDELITY BONDS

Section 7.1. All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Department of Insurance, and the cost of placement shall be paid by the affected department, institution, or agency with the approval of the Insurance Commissioner.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

Section 7.2. Of the funds appropriated in this act to the Contingency and Emergency Fund, the sum of nine hundred thousand dollars ($900,000) for the 1999-2000 fiscal year and the sum of nine hundred thousand dollars ($900,000) for the 2000-2001 fiscal year shall be designated for emergency allocations, which are for expenditures:

(1) Required by a court, Industrial Commission, or administrative hearing officer's order or award or to match unanticipated federal funds;
(2) Required to respond to an unanticipated disaster such as a fire, hurricane, or tornado; or
(3) Required to call out the National Guard.

Two hundred twenty-five thousand dollars ($225,000) for the 1999-2000 fiscal year and two hundred twenty-five thousand dollars ($225,000) for the 2000-2001 fiscal year shall be designated for other allocations from the Contingency and Emergency Fund.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

AUTHORIZED TRANSFERS

Section 7.3. The Director of the Budget may transfer to General Fund budget codes from the General Fund Salary Adjustment Reserves appropriation, and may transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Reserve appropriation amounts required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds may be transferred only

when salary reserve funds in individual operating budgets are not available.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

EXPENDITURES OF FUNDS IN RESERVES LIMITED

Section 7.4. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY

Section 7.5. Each private, nonprofit entity eligible to receive State funds, either by General Assembly appropriation, or by grant, loan, or other allocation from a State agency, before funds may be disbursed to the entity, shall file with the disbursing agency a notarized copy of that entity's policy addressing conflicts of interest that may arise involving the entity's management employees and the members of its board of directors or other governing body. The policy shall address situations where any of these individuals may directly or indirectly benefit, except as the entity's employees or members of the board or other governing body, from the entity's disbursing of State funds, and shall include actions to be taken by the entity or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

BUDGETING OF PILOT PROGRAMS

Section 7.6.(a) Any program designated by the General Assembly as experimental, model, or pilot shall be shown as a separate budget item and shall be considered as an expansion item until a succeeding General Assembly reapproves it.

Any new program funded in whole or in part through a special appropriations bill shall be designated as an experimental, model, or pilot program.

Section 7.6.(b) The Governor shall submit to the General Assembly with his proposed budget a report of which items in the proposed budget are subject to the provisions of this section.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

AUTHORIZATION OF PRIVATE LICENSE TAGS ON STATE-OWNED MOTOR VEHICLES

Section 7.7.(a) Pursuant to the provisions of G.S. 14-250, for the 1999-2001 fiscal biennium, the General Assembly authorizes the use of private license tags on State-owned motor vehicles only for the State Highway Patrol and for the following:

Department	Exemption Category	Number
Motor Vehicles	License and Theft	97
Justice	SBI Agents	277
Correction	Probation/Parole Surveillance Officers (intensive probation)	25
Crime Control and Public Safety	ALE Officers	92
Revenue		22
Capitol Area Police		2
Wildlife Resources Commission	Wildlife Enforcement Officers	12.

Section 7.7.(b) The 92 ALE vehicles authorized by this section to use private license tags shall be distributed as follows:

(1) 54 among Agent I officers;
(2) 20 among Agent II officers;
(3) 1 to the Deputy Director;
(4) 12 to the District Offices/Extra Vehicles; and
(5) 5 to the Director, to be distributed at the Director's discretion.

Section 7.7.(c) Except as provided in this section, all State-owned motor vehicles shall bear permanent registration plates issued under G.S. 20-84.

Section 7.7.(d) The Fiscal Research Division of the North Carolina General Assembly shall study the need for confidential, private, and fictitious license plates issued under the several controlling statutes and shall recommend to the Joint Legislative Commission on Governmental Operations no later than April 30, 2000, such changes as may be necessary to clarify and consolidate existing legal provisions affecting the authorization and use of such license plates.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

COMPREHENSIVE REVIEW OF ENVIRONMENTAL STUDIES

Section 7.8. On or before April 15, 2000, the Secretary of Environment and Natural Resources shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, the Environmental Review Commission, and the Division of Fiscal Research a written report containing the following information:

(1) An itemized list of all environmental studies authorized by the General Assembly during the period from July 1, 1979, to April 1, 2000.
(2) The identity of individuals and organizations who served as principal investigators or who managed the research activity for each study.

(3) A summary of the cost of each research study and the funding sources from which the costs were paid.
(4) A synopsis of the findings, conclusions, and recommendations of each study.
(5) An explanation of actions taken by the Department in response to the findings, recommendations, and conclusions contained in each study, including any changes in administrative rules or departmental policies, guidelines, and procedures.
(6) A report of the status, preliminary conclusions, and estimated time of completion for all studies that are currently in progress.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom, Martin of Guilford

APPROVE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES STATE PLAN

Section 7.10. (a) The Department of Health and Human Services shall amend the State Plan titled "North Carolina's Temporary Assistance for Needy Families State Plan FY 1998-2000", as approved by the General Assembly in Section 12.27A(a) of S.L. 1998-212, to extend the Plan's application to the two-year federal fiscal period commencing October 1, 1999, and ending September 30, 2001. The Department shall submit the State Plan as amended by this act and by any other act of the 1999 General Assembly to the United States Department of Health and Human Services as North Carolina's Temporary Assistance for Needy Families State Plan effective through September 30, 2001. The General Assembly approves the State Plan submitted in accordance with this section.

Section 7.10. (b) G.S. 108A-27.2(4) reads as rewritten:

"The Department shall have the following general duties with respect to the Work First Program:

. . .

(4) Establish a schedule for counties to submit their County Plans to ensure that all Standard County Plans are adopted by the Standard Program Counties by January 15 of each ~~even-numbered~~ odd-numbered year and all Electing County Plans are adopted by Electing Counties by February 1 of each ~~even-numbered~~ odd-numbered year and review and then recommend a State Plan to the General Assembly;".

Section 7.10. (c) Section 12.27A(g1) of S.L. 1998-212 reads as rewritten:

"(g1) The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY ~~1998-2000~~ 1998-2001 as approved by this section are: Alamance, Caldwell, Caswell, Chatham, Cherokee, Davie, Forsyth, Henderson, Iredell, Lincoln, Macon, McDowell, New Hanover, Polk, Randolph, Rutherford, Sampson, Stokes, Surry, Transylvania, and Wilkes."

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

AUTHORIZE TRANSFER TO MEET MAINTENANCE OF EFFORT REQUIREMENTS OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

Section 7.11. Notwithstanding any other provision of law to the contrary, to the extent necessary to meet federal maintenance of effort requirements for Temporary Assistance for Needy Families (TANF), the Department of Health and Human Services may, for the first quarter of the 1999-2000 fiscal year only, use State funds for the TANF Work First Family Assistance.

PART VIII. PUBLIC SCHOOLS

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL EVALUATION

Section 8.(a) The State Board of Education may spend up to fifty thousand dollars ($50,000) each year from State Aid to Local School Administrative Units for the 1999-2000 and 2000-2001 fiscal years to continue support of a charter school advisory committee.

Section 8.(b) The State Board of Education may spend up to one hundred fifty thousand dollars ($150,000) each year from State Aid to Local School Administrative Units for the 1999-2000 and 2000-2001 fiscal years to conduct an evaluation of charter schools.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

LITIGATION RESERVE

Section 8.1.(a) Funds in the State Board of Education's Litigation Reserve that are not expended or encumbered on June 30, 1999, shall not revert on July 1, 1999, but shall remain available for expenditure until June 30, 2000.

Section 8.1.(b) Subsection (a) of this section becomes effective June 30, 1999.

Section 8.1.(c) The State Board of Education may expend up to five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

EXCEPTIONAL CHILDREN

Section 8.2. The funds appropriated for exceptional children in this section shall be allocated as follows:

(1) Each local school administrative unit shall receive for academically gifted children the sum of seven hundred eighty-nine dollars and seventy-eight cents ($789.78) per child for four percent (4%) of the 1999-2000 allocated average daily membership in the local school administrative unit, regardless of the number of children identified as academically gifted in the local school administrative unit. The total number of children for which funds shall be allocated pursuant to this subdivision is 50,755 for the 1999-2000 school year.

(2) Each local school administrative unit shall receive for children with special needs the sum of two thousand three hundred seventy-four dollars and seventeen cents ($2,374.17) per child for the lesser of (i) all children who are identified as children with special needs or (ii) twelve and five-tenths percent (12.5%) of the 1999-2000 allocated average daily membership in the local school administrative unit. The maximum number of children for which funds shall be allocated pursuant to this subdivision is 151,965 for the 1999-2000 school year.

The dollar amounts allocated under this section for exceptional children shall also increase in accordance with legislative salary increments for personnel who serve exceptional children.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Moore, Senators Lee, Dalton, Plyler, Perdue, Odom

ALTERNATIVE SCHOOLS/AT-RISK STUDENTS

Section 8.3. The State Board of Education may use up to two hundred thousand dollars ($200,000) of the funds in the Alternative Schools/At-Risk Student allotment each year for the 1999-2000 and for the 2000-2001 fiscal years to implement G.S. 115C-12(24).

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

UNIFORM EDUCATION REPORTING SYSTEM (UERS)/STUDENT INFORMATION MANAGEMENT SYSTEM (SIMS) FUNDS

Section 8.4.(a) Funds appropriated for the Uniform Education Reporting System and the Student Information Management System shall not revert at the end of the 1999-2000 and 2000-2001 fiscal years, but shall remain available until expended.

Section 8.4.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

Section 8.5.(a) Funds for Supplemental Funding. -- The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement; therefore, funds are appropriated to State Aid to Local School Administrative Units for the 1999-2000 fiscal year and the 2000-2001 fiscal year to be used for supplemental funds for schools.

Section 8.5.(b) Use of Funds for Supplemental Funding. -- All funds received pursuant to this section shall be used only (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, instructional supplies and equipment, staff development, and textbooks, and (ii) for salary supplements for instructional personnel and instructional support personnel.

Local boards of education are encouraged to use at least twenty percent (20%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee.

Section 8.5.(c) Definitions. -- As used in this section:

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the:
   a. Anticipated county property tax revenue availability,
   b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
   c. Food stamp exemption reimbursement received by the county under G.S. 105-164.44C,
   d. Homestead exemption reimbursement received by the county under G.S. 105-277.1A,
   e. Inventory tax reimbursement received by the county under G.S. 105-275.1 and G.S. 105-277.001,
   f. Intangibles tax distribution and reimbursement received by the county under G.S. 105-275.2, and
   g. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:

a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,

b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,

c. Add to the resulting amount the:

1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,

2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and

3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:

a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,

b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,

c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,

d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

(12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(13) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(14) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

(14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

Section 8.5.(d) Eligibility for Funds. -- Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a

percentage of the State average wealth is less than one hundred percent (100%).

Section 8.5.(e) Allocation of Funds. -- Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth as a percentage of State average wealth by the State average current expense appropriations per student.)

The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit, located in whole or in part in the county, based on the average daily membership of the county's students in the school units.

If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

Section 8.5.(f) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. -- The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

Section 8.5.(g) Minimum Effort Required. -- Counties that had effective tax rates in the 1996-97 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-98 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only.

This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal

year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

Section 8.5.(h) Nonsupplant Requirement. -- A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 1999-2001 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

Section 8.5.(i) Reports. -- The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2000, if it determines that counties have supplanted funds.

Section 8.5.(j) Department of Revenue Reports. -- The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

Section 8.6.(a) Funds for Small School Systems. -- Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,150 students and (ii) to each county school administrative unit with an average daily membership of from

3,150 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,150 to 4,000 students. The allocation formula shall:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least three hundred fifty-five thousand dollars ($355,000), excluding textbooks.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fund fully the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

Section 8.6.(b) Nonsupplant Requirement. -- A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 1999-2001 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

Section 8.6.(c) Phase-Out Provisions. -- If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be phased out over a two-year period. For the first year of ineligibility, the unit shall receive the same amount it received for the prior fiscal year. For the second year of ineligibility, it shall receive one-half of that amount.

If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in the population of the county in which the local school administrative unit is located, funding for that unit shall be continued for five years after the unit becomes ineligible.

Section 8.6.(d) Definitions. -- As used in this section:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education.

(2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(4) "State adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales

assessment ratios shall be used. If property has been revalued during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

Section 8.6.(e) Reports. -- The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2000, if it determines that counties have supplanted funds.

Section 8.6.(f) Use of Funds. -- Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose and the State Board shall report this information to the Joint Legislative Education Oversight Committee.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

FUNDS FOR NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

Section 8.7.(a) Funds appropriated to the Department of Public Instruction in this act shall be used to pay for the National Board for Professional Teaching Standards (NBPTS) participation fee and for up to three days of approved paid leave for teachers participating in the NBPTS program during the 1999-2000 school year and the 2000-2001 fiscal year for State-paid teachers who (i) have completed three years of teaching in North Carolina schools operated by local boards of education, the Department of Health and Human Services, the Department of Correction, or The University of North Carolina, or affiliated with The University of North Carolina, prior to application for NBPTS certification, and (ii) have not previously received State funds for participating in any certification area in the NBPTS program. Teachers participating in the program shall take paid leave only with the approval of their supervisors.

A teacher for whom the State pays the participation fee (i) who does not complete the process or (ii) who completes the process but does not teach in a North Carolina public school for at least one year after completing the process, shall repay the certification fee to the State. Repayment is not required if the process is not completed or the teacher fails to teach for one year due to the death or disability of the teacher or other extenuating circumstances as may be recognized by the State Board.

Section 8.7.(b) The State Board shall adopt policies and guidelines to implement this section.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

FUNDS TO IMPLEMENT THE ABCs OF PUBLIC EDUCATION PROGRAM

Section 8.8.(a) Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education shall provide incentive funding for schools that meet or exceed the projected levels of improvement in student performance, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy, incentive awards in schools that achieve higher than expected improvements may be up to: (i) one thousand five hundred dollars ($1,500) for each teacher and for certified personnel; and (ii) five hundred dollars ($500.00) for each teacher assistant. In accordance with State Board of Education policy, incentive awards in schools that meet the expected improvements may be up to: (i) seven hundred fifty dollars ($750.00) for each teacher and for certified personnel; and (ii) three hundred seventy-five dollars ($375.00) for each teacher assistant.

Section 8.8.(b) The State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for assistance teams to low-performing schools.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SUBSTITUTE TEACHERS

Section 8.9. If the average number of days teachers are absent in a local school administrative unit is higher than the statewide average, the local board of education shall determine the reasons unit average is high and shall develop a plan for decreasing the unit average.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

LIMITED ENGLISH PROFICIENCY

Section 8.10.(a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. If data for the prior three years are not available, the State Board shall use the most recent reliable data. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited

English proficiency comprise at least two and one-half percent (2 1/2%) of the average daily membership of the unit or charter school. No unit or charter school shall receive funds for more than ten and six-tenths percent (10.6%) of its average daily membership.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, textbooks, classroom materials/instructional supplies/equipment, and staff development for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

Section 8.10.(b) The State Board of Education shall survey local school administrative units to determine whether schools are able to recruit and retain English as a Second Language (ESL) certified teachers. The State Board shall provide the results of this survey to the Joint Legislative Education Oversight Committee prior to March 15, 2000.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

EXPENDITURES FOR DRIVING EDUCATION CERTIFICATES/TEACHER RECRUITMENT

Section 8.11.(a) The State Board of Education may use funds appropriated for drivers education for the 1999-2000 fiscal year and for the 2000-2001 fiscal year for driving eligibility certificates.

Section 8.11.(b) The State Board of Education may use up to two hundred thousand dollars ($200,000) of the funds appropriated for State Aid to Local School Administrative Units for the 1999-2000 fiscal year and for the 2000-2001 fiscal year to enable teachers who have received NBPTS certification or who have otherwise received special recognition to advise the State Board of Education on teacher recruitment and other strategic priorities of the State Board.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

TEACHING FELLOWS ADMINISTRATIVE COSTS

Section 8.12. G.S. 115C-363.23A(f) reads as rewritten:

"(f) All funds appropriated to or otherwise received by the Teaching Fellows Program for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds, shall be placed in a revolving fund. This revolving fund shall be used for scholarship loans granted under the Teaching Fellows Program. With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used for campus and summer program support, and costs related to disbursement of awards and collection of loan repayments.

The Public School Forum, as administrator for the Teaching Fellows Program, may use up to one hundred fifty thousand dollars ($150,000) annually from the fund balance for costs associated with administration of the Teaching Fellows Program. These funds are in addition to funds required for collection costs related to loan repayments."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

TEACHER SALARY SCHEDULES

Section 8.13.(a) Effective for the 1999-2000 school year, the Director of the Budget may transfer from the Reserve for Compensation Increase for the 1999-2000 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one percent (1%) of base salary for 10 to 14 years of State service, one and one-half percent (1.5%) of base salary for 15 to 19 years of State service, two percent (2%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 1999, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education. The longevity payment shall be paid in a lump sum once a year.

Section 8.13.(b) For the 1999-2000 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

1999-2000 Monthly Salary Schedule
"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	$2,405	N/A
1	$2,447	N/A
2	$2,490	N/A
3	$2,668	$2,988
4	$2,824	$3,162
5	$2,951	$3,305
6	$3,052	$3,418
7	$3,099	$3,470
8	$3,147	$3,524
9	$3,196	$3,579
10	$3,245	$3,634

11	$3,294	$3,689
12	$3,344	$3,745
13	$3,396	$3,803
14	$3,449	$3,862
15	$3,503	$3,923
16	$3,558	$3,984
17	$3,614	$4,047
18	$3,671	$4,111
19	$3,729	$4,176
20	$3,789	$4,243
21	$3,850	$4,312
22	$3,913	$4,382
23	$3,976	$4,453
24	$4,040	$4,524
25	$4,105	$4,597
26	$4,172	$4,672
27	$4,241	$4,749
28	$4,311	$4,828
29+	$4,382	$4,907

1999-2000 Monthly Salary Schedule
"G" Teachers

Years of Experience	"G" Teachers	NBPTS Certification
0	$2,555	N/A
1	$2,600	N/A
2	$2,646	N/A
3	$2,835	$3,175
4	$3,001	$3,361
5	$3,135	$3,511
6	$3,243	$3,632
7	$3,293	$3,688
8	$3,344	$3,745
9	$3,396	$3,803
10	$3,448	$3,861
11	$3,500	$3,920
12	$3,553	$3,979
13	$3,608	$4,040
14	$3,665	$4,104
15	$3,722	$4,168
16	$3,780	$4,233
17	$3,840	$4,300
18	$3,900	$4,368
19	$3,962	$4,437
20	$4,026	$4,509
21	$4,091	$4,581
22	$4,158	$4,656

23	$4,225	$4,732
24	$4,293	$4,808
25	$4,362	$4,885
26	$4,433	$4,964
27	$4,506	$5,046
28	$4,580	$5,129
29+	$4,656	$5,214

Section 8.13.(b1) Certified public school teachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "G" teachers. Certified public school teachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "G" teachers.

Section 8.13.(c) Effective for the 1999-2000 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "G" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

Section 8.13.(d) Effective for the 1999-2000 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars

($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

Section 8.13.(e) Certified school nurses who are employed in the public schools as nurses shall be paid on the "G" salary schedule.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SCHOOL-BASED ADMINISTRATOR SALARIES

Section 8.14.(a) Funds appropriated to the Reserve for Compensation Increase shall be used for the implementation of the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

Section 8.14.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 1999-2000 fiscal year, commencing July 1, 1999, is as follows:

1999-2000
Principal and Assistant Principal Salary Schedules

	Classification					
	1	1	2	3	4	5
Yrs. of Exp	Assist Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)	Prin V (44-54)
4	$3,031	--	--	--	--	--
5	$3,166	--	--	--	--	--
6	$3,275	--	--	--	--	--
7	$3,326	--	--	--	--	--
8	$3,377	$3,377	--	--	--	--
9	$3,430	$3,430	--	--	--	--
10	$3,482	$3,482	$3,535	--	--	--
11	$3,535	$3,535	$3,589	--	--	--
12	$3,589	$3,589	$3,644	$3,702	--	--
13	$3,644	$3,644	$3,702	$3,759	$3,818	--
14	$3,702	$3,702	$3,759	$3,818	$3,878	$3,939
15	$3,759	$3,759	$3,818	$3,878	$3,939	$4,002
16	$3,818	$3,818	$3,878	$3,939	$4,002	$4,066
17	$3,878	$3,878	$3,939	$4,002	$4,066	$4,132
18	$3,939	$3,939	$4,002	$4,066	$4,132	$4,200
19	$4,002	$4,002	$4,066	$4,132	$4,200	$4,267
20	$4,066	$4,066	$4,132	$4,200	$4,267	$4,336
21	$4,132	$4,132	$4,200	$4,267	$4,336	$4,406
22	$4,200	$4,200	$4,267	$4,336	$4,406	$4,477
23	$4,267	$4,267	$4,336	$4,406	$4,477	$4,551
24	$4,336	$4,336	$4,406	$4,477	$4,551	$4,626

25	$4,406	$4,406	$4,477	$4,551	$4,626	$4,703
26	$4,477	$4,477	$4,551	$4,626	$4,703	$4,797
27	$4,551	$4,551	$4,626	$4,703	$4,797	$4,893
28	$4,626	$4,626	$4,703	$4,797	$4,893	$4,991
29	$4,703	$4,703	$4,797	$4,893	$4,991	$5,091
30	$4,797	$4,797	$4,893	$4,991	$5,091	$5,193
31	$4,893	$4,893	$4,991	$5,091	$5,193	$5,297
32		$4,991	$5,091	$5,193	$5,297	$5,403
33			$5,193	$5,297	$5,403	$5,511
34			$5,297	$5,403	$5,511	$5,621
35				$5,511	$5,621	$5,733
36				$5,621	$5,733	$5,848
37					$5,848	$5,965
38						$6,084
39						
40						
41						

1999-2000
Principal and Assistant Principal Salary Schedules

Classification

Yrs. of Exp	6 Prin VI (55-65)	7 Prin VII (66-100)	8 Prin VIII (101+)
4	--	--	--
5	--	--	--
6	--	--	--
7	--	--	--
8	--	--	--
9	--	--	--
10	--	--	--
11	--	--	--
12	--	--	--
13	--	--	--
14	--	--	--
15	--	--	--
16	$4,132	--	--
17	$4,200	$4,336	--
18	$4,267	$4,406	$4,477
19	$4,336	$4,477	$4,551
20	$4,406	$4,551	$4,626
21	$4,477	$4,626	$4,703
22	$4,551	$4,703	$4,797
23	$4,626	$4,797	$4,893
24	$4,703	$4,893	$4,991
25	$4,797	$4,991	$5,091

26	$4,893	$5,091	$5,193
27	$4,991	$5,193	$5,297
28	$5,091	$5,297	$5,403
29	$5,193	$5,403	$5,511
30	$5,297	$5,511	$5,621
31	$5,403	$5,621	$5,733
32	$5,511	$5,733	$5,848
33	$5,621	$5,848	$5,965
34	$5,733	$5,965	$6,084
35	$5,848	$6,084	$6,206
36	$5,965	$6,206	$6,330
37	$6,084	$6,330	$6,457
38	$6,206	$6,457	$6,586
39	$6,330	$6,586	$6,718
40	$6,457	$6,718	$6,852
41		$6,852	$6,989

Section 8.14.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools, shall be determined in accordance with the following schedule:

Classification	**Number of Teachers Supervised**
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

Section 8.14.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal.

Section 8.14.(e) For the 1999-2000 fiscal year, a principal or assistant principal shall be placed on the appropriate step plus one percent (1%) if:

(1) The employee's school met or exceeded the projected levels of improvement in student performance for the 1997-98 fiscal year, in accordance with the ABCs of Public Education Program; or

(2) The local board of education found in 1997-98 that the employee's school met objectively measurable goals set by the local board of education for maintaining a safe and orderly school; or

(3) The employee's school met or exceeded the projected levels of improvement in student performance for the 1998-99 fiscal year, in accordance with the ABCs of Public Education Program; or

(4) The local board of education found in 1998-99 that the employee's school met objectively measurable goals set by the local board of education for maintaining a safe and orderly school.

The principal or assistant principal shall be placed on the appropriate step plus an additional one percent (1%) for meeting each additional condition set out in subdivisions (1) through (4). Under no circumstance shall placement of a principal or assistant principal be higher than four percent (4%) above the appropriate step on the salary schedule.

Section 8.14.(f) For the 1999-2000 fiscal year, a principal or assistant principal shall receive a lump-sum payment of:

(1) One percent (1%) of his or her State-paid salary if the employee's school meets or exceeds the projected levels of improvement in student performance for the 1999-2000 fiscal year, in accordance with the ABCs of Public Education Program.

(2) One percent (1%) of his or her State-paid salary if the local board of education finds that the employee's school has met the 1999-2000 goals of the local plan for maintaining a safe and orderly school.

The principal or assistant principal shall receive a lump-sum payment of two percent (2%) if the conditions set out in both subdivisions (1) and (2) are satisfied.

The lump sum shall be paid as determined by guidelines adopted by the State Board. Except as provided in subsection (l) of this section, placement on the salary schedule in the following year shall be based upon these increases.

Section 8.14.(g) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

Section 8.14.(h) There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal

receives in State salary in that school unit: Provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-93 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-93 fiscal year.

Section 8.14.(i) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

Section 8.14.(j)

(1) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

(2) If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subdivision applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subdivision for one calendar year following the date of the merger. **Section 8.14.(k)** Participants in an approved full-time masters in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. Certification of eligible full-time interns shall be supplied to the Department of Public Instruction by the Principal's Fellow Program or a school of education where the intern participates in a full-time masters in school administration.

Section 8.14.(l) During the 1999-2000 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher. Lump-sum payments received pursuant to subsection (f) of this section shall not be considered in placing the employee on the salary schedule in subsequent years that the employee is employed under either a provisional or a full certificate.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SCHOOL CENTRAL OFFICE SALARIES

Section 8.15.(a) The following monthly salary ranges apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 1999-2000 fiscal year, beginning July 1, 1999:

(1)	School Administrator I:	$2,932 - $5,003
(2)	School Administrator II:	$3,112 - $5,310
(3)	School Administrator III:	$3,303 - $5,636
(4)	School Administrator IV:	$3,436 - $5,863
(5)	School Administrator V:	$3,574 - $6,101
(6)	School Administrator VI:	$3,792 - $6,475
(7)	School Administrator VII:	$3,945 - $6,737

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 1999.

Section 8.15.(b) The following monthly salary ranges apply to public school superintendents for the 1999-2000 fiscal year, beginning July 1, 1999:

(1)	Superintendent I (Up to 2,500 ADM):	$4,187 - $7,150
(2)	Superintendent II (2,501 - 5,000 ADM):	$4,445 - $7,585
(3)	Superintendent III (5,001 - 10,000 ADM):	$4,716 - $8,050
(4)	Superintendent IV (10,001 - 25,000 ADM):	$5,005 - $8,542
(5)	Superintendent V (Over 25,000 ADM):	$5,312 - $9,066

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 8.14 of this act.

Section 8.15.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

Section 8.15.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for pursuant to this section. Superintendents,

assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

Section 8.15.(e) The State Board shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

Section 8.15.(f) The Director of the Budget shall transfer from the Reserve for Compensation Increase created in this act for fiscal year 1999-2000, beginning July 1, 1999, funds necessary to provide an average annual salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1999, for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

Section 8.15.(g) Any person who was employed on July 1, 1999, as a permanent public school employee whose salary is set by or under this section shall receive a compensation bonus, payable at the end of the first pay period, of one hundred twenty-five dollars ($125.00). For permanent part-time employees, the compensation bonus provided by this section shall be adjusted pro rata. Notwithstanding G.S. 135-1(7a), the compensation bonus provided by this section is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

NONCERTIFIED PERSONNEL SALARY FUNDS/TEACHER ASSISTANT SALARY FUNDS

Section 8.16.(a) The Director of the Budget may transfer from the Reserve for Compensation Increase created in this act for fiscal year 1999-2000, commencing July 1, 1999, funds necessary to provide a salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1999, for all noncertified public school employees whose salaries are supported from the State's General Fund. Local boards of education shall increase the rates of pay for all such employees who were employed during fiscal year 1998-99 and who continue their employment for fiscal year 1999-2000 by at least three percent (3%), commencing July 1, 1999. These funds shall not be used for any purpose other than for the salary increases and necessary employer contributions provided by this section.

The State Board of Education may enact or create salary ranges for noncertified personnel to support increases of three percent (3%) for the 1999-2000 fiscal year.

Section 8.16.(b) Effective July 1, 1999, any person who was employed on the first day of the 1999-2000 school year as a permanent public school employee whose salary is set by or under this section shall receive a compensation bonus, payable at the end of the employee's first pay period, of one hundred twenty-five dollars ($125.00). For permanent part-time employees, the compensation bonus provided by this section shall be adjusted pro rata. Notwithstanding G.S. 135-1(7a), the compensation bonus provided by this section is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

STUDENT ACCOUNTABILITY STANDARDS

Section 8.17. Funds appropriated for the 1999-2001 fiscal biennium for Student Accountability Standards shall be used to assist students in performing at or above grade level in reading and mathematics in grades 3-8 as measured by the State's end-of-grade tests. The State Board of Education shall allocate these funds to local school administrative units based on the number of students who score at Level I or Level II on either reading or mathematics end-of-grade tests in grades 3-8. Funds in this allocation category shall be spent only to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. These funds shall not be transferred to other allocation categories or otherwise used for other purposes. Except as otherwise provided by law, local boards of education may transfer other funds available to them into this allocation category.

The principal of a school receiving these funds, in consultation with the faculty and the site-based management team, shall implement plans for expending these funds to improve the performance of students.

Continuation budget funds previously appropriated for NC Helps and for the middle school pilot project shall be transferred to this allocation category.

Local boards of education are encouraged to use federal funds such as Goals 2000 and Title I Comprehensive School Reform Development Funds and to examine the use of State funds to ensure that every student is performing at or above grade level in reading and mathematics.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to the convening of the 2000

Regular Session of the General Assembly on the implementation of this section. The report may include recommendations regarding the transfer of other funds into this allocation category.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

APPROPRIATION OF FUNDS FROM STATE LITERARY FUND

Section 8.18. There is appropriated from the State Literary Fund to the Department of Public Instruction the sum of two million five hundred thousand dollars ($2,500,000) for the 1999-2000 fiscal year for aid to local school administrative units.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

TRANSFER FROM UNEMPLOYMENT RESERVE FUND

Section 8.19. The State Board of Education shall transfer the sum of eight hundred fifty thousand dollars ($850,000) from the Unemployment Reserve Fund to the General Fund in the 1999-2000 fiscal year. Of the funds appropriated in Section 2 of this act to the Department of Public Instruction, the sum of eight hundred fifty thousand dollars ($850,000) in fiscal year 1999-2000 is to be used as a part of State Aid to Local School Administrative Units. These funds are intended to provide educational programs similar to the State and federal programs that comprise the unemployment reserve.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

HIGH SCHOOL EXIT EXAMS

Section 8.20. Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to two million dollars ($2,000,000) for the 1999-2000 fiscal year to develop a high school exit examination.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to the expenditure of these funds.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

CENTRAL OFFICE ADMINISTRATOR SALARY STUDY

Section 8.21. The Joint Legislative Education Oversight Committee shall study the issue of salaries for school central office to provide full funding of the central office funding and the need to provide additional funding for this purpose. The Department of Public Instruction shall provide to the Committee all information and data requested to perform the study. The Committee shall report the

results of this study to the General Assembly prior to the convening of the 2000 Regular Session of the General Assembly.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

MENTOR PROGRAM STUDY

Section 8.22. The State Board of Education shall study the mentor program for teachers with initial certification. In the course of the study the State Board of Education shall consider:

(1) Whether there is sufficient release time for the mentor and the teacher with initial certification to work together;

(2) Whether the mentor and the teacher with initial certification are in the same school and are teaching in the same grade level and area of certification; and

(3) The level of satisfaction with the program of mentors and initially certified teachers participating in the program.

The State Board of Education shall report the results of the study to the Joint Legislative Education Oversight Committee prior to the convening of the 2000 Regular Session of the General Assembly.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

NEED FOR SCHOOL NURSES/STUDY

Section 8.23. The Joint Legislative Education Oversight Committee shall examine the need for additional nurses in the public schools. If the Committee finds that additional nurses are necessary, the Committee shall forward the results of the study to public and private entities concerned about issues related to health care.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

STUDY OF SCHOOL TRANSPORTATION FOR CHILDREN WITH SPECIAL NEEDS

Section 8.24. The State Board of Education shall study the issue of school transportation for children with special needs. In the course of the study, the State Board shall consider the difficulty local school administrative units are having in meeting the length of school day requirements for these children. The State Board shall report the results of the study and its recommendations to the Joint Legislative Education Oversight Committee prior to January 1, 2000.

The State Board of Education may spend up to fifty thousand dollars ($50,000) from funds appropriated for public school transportation to perform this study.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Carter, Plyler, Perdue, Odom

STRENGTHEN ALTERNATIVE SCHOOLS/ALTERNATIVE LEARNING PROGRAMS

Section 8.25.(a) G.S. 115C-47(32a) reads as rewritten:

"§ *115C-47. Powers and duties generally.*

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

. . .

(32a) To Establish Alternative Learning Programs and Develop Policies and ~~Guidelines for Alternative Learning Programs.~~ Guidelines. -- ~~Local boards~~ Each local board of education ~~are encouraged to~~ shall establish at least alternative learning ~~programs. If these programs are established, local boards of education~~ programs and shall adopt guidelines for assigning students to ~~them.~~ alternative learning programs. These guidelines shall include (i) a description of the programs and services to be provided, (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision, and (iii) strategies for providing alternative learning programs, when feasible and appropriate, for students who are subject to long-term suspension or expulsion. In developing these guidelines, local boards ~~are encouraged to~~ shall consider the State Board's policies and guidelines developed under G.S. 115C-12(24). Upon adoption of policies and guidelines under this subdivision, local boards are encouraged to incorporate them in their safe school plans developed under G.S. 115C-105.47.

The General Assembly urges local boards to adopt policies that prohibit superintendents from assigning to any alternative learning program any professional public school employee who has received within the last three years a rating on a formal evaluation that is less than above standard."

Section 8.25.(b) G.S. 115C-105.26 is amended by adding a new subsection to read:

"(c1) The State Board also may grant requests received from local boards for waivers of State laws, rules, or policies that require that each local school administrative unit provide at least one alternative school or at least one alternative learning program."

Section 8.25.(c) G.S. 115C-105.25(b) is amended by adding a new subdivision to read:

"(9) Funds allocated in the Alternative Schools/At-Risk Student allotment shall be spent only for alternative learning programs, at-risk students, and school safety programs."

Section 8.25.(d) G.S. 115C-12(24) reads as rewritten:

"§ *115C-12. Powers and duties of the Board generally.*

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

. . . (24)Duty to Develop Policies and Guidelines for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. -- The State Board of Education shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision. The State Board also shall adopt policies that define what constitutes an alternative school and an alternative learning program.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing alternative schools and alternative learning programs.

The State Board of Education shall also adopt guidelines to require that local school administrative units shall use (i) the teachers allocated for students assigned to alternative learning programs pursuant to the regular teacher allotment and (ii) the teachers allocated for students assigned to alternative learning programs only to serve the needs of these students. The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs."

Section 8.25.(e) The State Board of Education shall review the qualifications of teachers assigned to alternative schools and alternative learning programs. The State Board shall include this information in the annual report to the Joint Legislative Education Oversight Committee on alternative schools and alternative learning programs prior to the convening of the 2000 Regular Session of the 1999 General Assembly.

Section 8.25.(f) The provisions in subsection (a) of this section that amend G.S. 115C-47(32a) to require at least one alternative school or alternative learning program in each local school administrative unit become effective July 1, 2000. The remainder of this section becomes effective July 1, 1999.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Adams, Berry, Howard, McAllister, Senators Lee, Dalton, Plyler, Perdue, Odom

EXPAND SCHOOL BREAKFAST PROGRAM

Section 8.26.(a) The State Board of Education shall expand the school breakfast program to all students in kindergarten, prior to the beginning of the 2000-2001 school year. Any school that serves kindergarten students is eligible to receive funds under the program for the 1999-2000 fiscal year for those students. Schools participating in the program shall provide breakfast, without charge, to all kindergarten students.

If these funds are not adequate to expand the program to all students in schools that elect to participate for the 1999-2000 school year, the Board of Education shall give priority to schools with a high concentration of children who qualify for free or reduced price lunches.

Section 8.26.(b) This section becomes effective January 1, 2000.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

WILLIE M. FUNDS/STATE AID TO LOCAL SCHOOL ADMINISTRATIVE UNITS

Section 8.27. Funds appropriated to State Aid to Local School Administrative Units to provide services to Willie M. class members shall be spent only to provide services that are required by State and federal law to (i) children with special needs who were identified as members of the class at the time of dissolution of the class, and (ii) other children with special needs.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

CHARTER SCHOOLS/ADM REDUCTION

Section 8.28.(a) If the projected average daily membership of schools other than charter schools in a county school administrative unit with 3,000 or fewer students is decreased by more than four percent (4%) due to projected shifts of enrollment to charter schools, the State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for the 1999-2000 fiscal year to reduce the loss of funds to the schools other than charter schools in the unit to a maximum of four percent (4%). This section applies to the 1999-2000 fiscal year only.

Section 8.28.(b) The State Board of Education shall study the fiscal impact of charter schools on local school administrative units. The State Board of Education shall report the results of the study to the Joint Legislative Education Oversight Committee prior to the convening of the 2000 Regular Session of the General Assembly.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

TEXTBOOK COMMISSION MEMBERSHIP EXPANSION

Section 8.30.(a) G.S. 115C-87 reads as rewritten:

"§ *115C-87. Appointment of Textbook Commission.*

Shortly after assuming office, the Governor shall appoint a Textbook Commission of ~~14~~ 23 members who shall hold office for four years, or until their successors are appointed and qualified. The members of the Commission shall be appointed by the Governor upon recommendation of the Superintendent. ~~Six~~ Five of these members shall be teachers or principals in ~~the elementary grades;~~ grades K-5; five shall be teachers or principals in ~~the high school grades; one shall be a superintendent of a local school administrative unit;~~ grades 6-8; four shall be superintendents, teachers, or principals in grades 9-12; one shall be a superintendent of a local school administrative unit, ~~one~~ three shall be ~~the parent of an elementary student, grades K-6,~~ parents of students in grades K-5 at the time of appointment; ~~and one shall be the parent of a high school student, grades 7-12,~~ three shall be parents of students in grades 6-8 at the time of ~~appointment.~~ appointment; and two shall be parents of students in grades 9-12 at the time of appointment. The Governor shall fill all vacancies by appointment for the unexpired term. The Commission shall elect a chairman, subject to the approval of the Superintendent. The Commission shall meet four times a year or at the call of the chair. The members shall be entitled to compensation for each day spent on the work of the Commission as approved by the Board and to reimbursement for travel and subsistence expense incurred in the performance of their duties at the rates specified in G.S. 138-5(a). ~~Such compensation~~ Compensation shall be paid from funds available to the State Board of Education."

Section 8.30.(b) G.S. 115C-88 reads as rewritten:

"§ *115C-88. Commission to evaluate textbooks offered for adoption.*

(a) The ~~members of the Commission who are teachers, principals or the parent of students~~ Commission shall evaluate all textbooks offered for adoption.

Each proposed textbook shall be read by at least one expert certified in the discipline for which the textbook would be used. The Commission may use external experts if no Commission member or advisory committee member qualifies as an expert certified in a particular discipline.

The Commission may consider any review of a proposed textbook by other experts certified in the discipline who are not involved in the textbook adoption process. However, these reviews may not substitute for the direct examination of the proposed textbook by a Commission member, an advisory committee member, or any other expert retained by the Commission.

(b) Each member shall examine carefully and file a written evaluation of each ~~textbook offered for adoption.~~ proposed textbook for which the member is responsible.

The evaluation report shall give special consideration to the suitability of the textbook to the instructional level for which it is offered, the content or subject matter, whether the textbook is aligned with the Standard Course of Study, and other criteria prescribed by the Board.

Each evaluation report shall be signed by the member making the report and filed with the Board not later than a day fixed by the Board when the call for adoption is made."

Section 8.30.(c) This section becomes effective January 1, 2000. Notwithstanding G.S. 115C-87, the additional members appointed to the Textbook Commission under this section shall hold office until the new Governor takes office in 2001 and their successors are appointed and qualified.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

DIFFERENTIATED DIPLOMA STUDY

Section 8.31.(a) The Joint Legislative Education Oversight Committee may study the issue of differentiated high school diplomas. The Committee may report any findings and recommendations to the General Assembly prior to the convening of the 2000 Regular Session of the 1999 General Assembly, or prior to the convening of the 2001 General Assembly.

Section 8.31.(b) The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to implementing a differentiated diploma plan.

Requested by: Representatives Moore, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

TEACHER ASSISTANT SALARY STUDY

Section 8.32. The Joint Legislative Education Oversight Committee shall review information and reports provided by the State Board of Education and shall conduct any further study the Committee deems necessary regarding the establishment of a teacher assistant salary schedule. The Committee shall report its findings and a recommendation on the establishment of a teacher assistant salary schedule to the General Assembly prior to the convening of the 2000 Regular Session of the 1999 General Assembly.

Requested by: Representatives Redwine, Easterling, Hardaway, Senators Lee, Dalton, Plyler, Perdue, Odom

STUDY OF THE RELATIONSHIP BETWEEN SCHOOL SIZE AND STUDENT BEHAVIOR AND PERFORMANCE

Section 8.33. The State Board of Education shall study the relationship between school size and the behavior and academic

performance of students at the school. The State Board shall report the results of the study to the Joint Legislative Education Oversight Committee prior to April 15, 2000.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Reeves, Lee, Dalton, Plyler, Perdue, Odom

COOPERATION IN EDUCATION INFORMATION TECHNOLOGY

Section 8.34. On or before January 1, 2000, the Education Cabinet shall submit a report to the General Assembly:

(1) Specifying those functions involving information technology systems, procedures and procurements that are amenable to collaboration among the North Carolina Community Colleges System Office, North Carolina community colleges, the Department of Public Instruction, local school administrative units, and The University of North Carolina and its constituent institutions;

(2) Recommending approaches to facilitate collaboration in these functions; and

(3) Including any necessary proposed legislation to accomplish that purpose.

The report shall be submitted to the Chairs of the Senate and House Information Technology Standing Committees, the House Appropriations Subcommittee on Education, the Senate Appropriations Subcommittee on Education/Higher Education, the House Committee on Education, the Senate Committee on Education/Higher Education, the Fiscal Research Division, and the Information Services Division of the General Assembly.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

ESTABLISH A PILOT PROGRAM TO TEST AND EVALUATE A REVISED SCHOOL ACCOUNTABILITY MODEL FOR THE ABCs PLAN

Section 8.36. The State Board of Education shall establish a pilot program in up to five local school administrative units for the purpose of determining whether revisions in the present school accountability model under the ABCs Plan are likely to result in more students demonstrating mastery of grade level subject matter and skills on the end-of-grade tests or demonstrating mastery of course subject matter or skills on end-of-course tests. The State Board, in selecting pilot sites, shall consider geographical areas of the State and urban and rural areas.

The revised school accountability model shall be common for all schools in all local school administrative units that participate in the pilot program. For purposes of the pilot program, the State Board shall disaggregate student performance within designated demographic groups or designated student performance level groups or both. The

pilot school accountability model shall take into account student performance for each designated group and shall incorporate that performance in the overall school accountability model for the pilot program. The statewide ABCs Plan school accountability model also shall apply to the participating schools.

During the 1999-2000 school year, the State Board shall select local school administrative units to participate in the pilot program. The units shall be located geographically throughout the State, have different demographic profiles, and must have volunteered to participate in the program. A local board shall submit an application to the State Board in order to be considered for participation in the pilot program. Before a local board may submit an application to the State Board, it shall hold a public meeting and pass a resolution specifically approving its participation in the pilot program. The State Board shall implement the pilot program in the participating units during the 2000-2001 school year.

Personnel in schools that participate in the pilot program and that achieve the pilot program school accountability goals shall be eligible to receive financial awards for that achievement. Personnel in schools that participate in the pilot program and that achieve the statewide ABCs Plan school accountability goals also shall be eligible to receive financial awards under G.S. 115C-105.36. The financial awards for achieving the pilot program goals shall be separate from and in addition to the financial awards that are provided under G.S. 115C-105.36. All other statutory and regulatory provisions of the statewide ABCs Plan school accountability model shall apply to local school administrative units, schools, and school personnel that participate in the pilot program. Notwithstanding any other law and in accordance with G.S. 115C-325(a)(4), the following shall not constitute a demotion: the reduction or elimination of bonus payments under the pilot program; the termination of the pilot program in a local school administrative unit or all participating units; or the statewide implementation of the pilot program school accountability model in the place of or as incorporated into the current ABCs Plan school accountability standards.

The State Board shall set a uniform level of financial awards for personnel in schools that achieve the pilot program goals, and the awards may be up to seven hundred fifty dollars ($750.00) for each teacher and certified personnel and up to three hundred twenty-five dollars ($325.00) for each teacher assistant. The State Board shall establish a match of twenty-five percent (25%) in local funds for participating school units that do not qualify for Low-Wealth or Small School supplemental funding. The match shall be used to meet the pilot program financial awards level in those school units.

The State Board shall evaluate the pilot program on an annual basis regarding its implementation in each participating unit, the student performance achieved by schools participating in the pilot, whether the student performance of students who qualify for free or reduced lunch is improved, and how the student performance in pilot

program schools compares with the statewide results under the ABCs Plan. The State Board also shall determine whether the pilot program should be continued or terminated in each unit. The State Board may, in its discretion, terminate the pilot program in a local school administrative unit. The State Board shall terminate the pilot program in a local school administrative unit at the request of the unit's local board of education. However, the State Board shall not terminate a pilot program in a participating unit during the school year.

The State Board shall make a preliminary report to the Joint Legislative Education Oversight Committee by November 15, 1999, and prior to the selection of any local school administrative units to participate in the pilot program regarding the development of the revised school accountability model for the pilot program and the selection of local school administrative units to participate in the program. The Committee shall review the report and may make any recommendations to the State Board the Committee deems appropriate. The State Board shall report again to the Joint Legislative Education Oversight Committee prior to March 15, 2000, regarding the selection of participating school administrative units, the implementation of the pilot program, the estimated cost of providing bonuses under the pilot program, and possible sources of funds for the bonuses. The State Board also shall report to the Joint Legislative Education Oversight Committee by October 15, 2001, and annually thereafter, its findings and recommendations regarding the continued implementation, expansion, and modification of the pilot program.

The Joint Legislative Education Oversight Committee shall study issues related to the development of a revised school accountability model including the disagregation of student performance, models used in other states, and possible sources of funds for bonuses under a revised mode. The Committee may report its findings and recommendations to the 2000 Regular Session of the General Assembly, or to the 2001 General Assembly.

This section becomes effective July 1, 1999, and expires with the payment of pilot program incentive awards for the 2004-2005 school year.

PART IX. COMMUNITY COLLEGES

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

EMPLOYMENT OF COMMUNITY COLLEGE FACULTY/STUDY

Section 9. The State Board of Community Colleges shall contract with an outside consultant to study the issue of whether the Community College System should employ faculty members for less than 12 months instead of on a 12-month basis since the Community College System now operates on a semester system instead of a quarter system. The consultant also shall consider how much additional supplemental funding for summer term would be required if the

Community College System employed faculty members for less than 12 months and needed to employ a portion of the faculty for the summer term.

The State Board shall use funds from the State Board Reserve to implement this section.

The State Board shall report to the Joint Legislative Appropriations Subcommittees on Education and the Fiscal Research Division prior to April 30, 2000, on the results of this study. It is the intent of the General Assembly, in considering the results of this study and other recommendations regarding community college faculty salaries, to provide for changes in the salary of community college faculty that result in an enhancement of salary for community college faculty.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Moore, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

COOPERATIVE HIGH SCHOOL EDUCATION PROGRAM ACCOUNTABILITY

Section 9.1. Section 10.7 of the Current Operations Appropriations and Capital Improvement Appropriations Act of 1998 directed the State Board of Community Colleges and the State Board of Education to create a joint task force to study the existing policies for cooperative high school education programs and to recommend changes necessary to improve the programs' success and accountability. Section 10.7 further directed the Boards to report their findings and recommendations to the Joint Legislative Education Oversight Committee and the Fiscal Research Division prior to March 1, 1999.

The General Assembly finds that the study submitted by the Boards inadequately addressed the concerns of the General Assembly; therefore, the General Assembly hereby requests that the Boards jointly reconsider existing policies for cooperative high school education programs. The General Assembly further requests that the Boards make a preliminary report to the Joint Legislative Education Oversight Committee and the Fiscal Research Division prior to November 15, 1999, and a final report prior to April 15, 2000. The report shall include findings and recommendations that will enable the State to achieve the goal of the General Assembly to increase the number of qualified high school students participating in cooperative high school education programs that are provided by local community colleges. These programs should be cost-effective programs and should not duplicate high school Advanced Placement courses that are currently being offered or that could feasibly be offered. These programs should provide additional higher education opportunities for qualified high school students while minimizing overlapping costs to the State for public schools and community colleges.

After submission of the final report, the Joint Legislative Education Oversight Committee shall review the report and the

success, or lack thereof, of this cooperative program. In the event the Committee finds that the report inadequately addresses the existing policies for cooperative high school education programs, or that there is an inadequate level of coordination between the high school, and community colleges, the Committee shall make a recommendation to the General Assembly as to how much, if any, downward adjustment should be made in appropriations to the respective agencies for failure to adequately develop and implement this program. This downward adjustment would be recommended due to the fact that this study, and the implementation thereof, is anticipated to be funded and implemented from current personnel and resources, and failure to adequately implement the program signifies a misuse of resources for which a downward adjustment in appropriations should be made.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

IMPLEMENTATION OF PERFORMANCE BUDGETING

Section 9.2.(a) It is the intent of the General Assembly that the the State Board of Community Colleges implement the findings of the consultant's Phase IV Funding Study Report, prepared by the State Board and submitted to the Education Appropriations Subcommittee, on performance budgeting; therefore, Chapter 115D of the General Statutes is amended by adding a new section to read:

"*§ 115D-31.3. Performance budgeting.*

(a) The State Board of Community Colleges shall create new accountability measures and performance standards to be used for performance budgeting for the Community College System. The results of a survey may be used as a performance standard only if the survey is statistically valid. The State Board of Community Colleges shall review annually the accountability measures and performance standards to ensure that they are appropriate for use in performance budgeting.

(b) Notwithstanding any other provision of law, the State Board shall authorize each institution meeting the new performance standards to carryforward funds remaining in its budget at the end of each fiscal year in an amount not to exceed two percent (2%) of the State funds allocated to the institution for that fiscal year. The funds carried forward shall be used for the purchase of equipment and initial program start-up costs excluding regular faculty salaries. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward.

(c) The five required performance measures are (i) progress of basic skills students, (ii) passing rate for licensure and certification examinations, (iii) goal completion of program completers, (iv) employment status of graduates, and (v) performance of students who transfer to the university system. Colleges may choose one other

performance measure from the list contained in the State Board's Phase 4 Funding Formula Study, which was presented to the Joint Legislative Education Oversight Committee. Successful performance on each of the six performance measures shall allow a college to retain and carry forward up to one-third of one percent (1/3 of 1%) of its final fiscal year General Fund appropriations into the next fiscal year.

(d) Each college shall publish its performance on these six measures in its catalog each year beginning with the 2001 academic year."

Section 9.2.(b) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee and to the Fiscal Research Division prior to March 1, on an annual basis, on the implementation of this provision.

Section 9.2.(c) This section becomes effective July 1, 1999. The State Board of Community Colleges shall authorize institutions meeting the new performance standards to carry forward funds from the 2000-2001 fiscal year to the 2001-2002 fiscal year and at the end of subsequent fiscal years.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

OVER-REALIZED TUITION AND FEE RECEIPTS TRANSFERRED TO THE EQUIPMENT RESERVE FUND

Section 9.3.(a) G.S. 115D-31 is amended by adding a new subsection to read:

"(e) If receipts for community college tuition and fees exceed the amount certified in General Fund Codes at the end of a fiscal year, the State Board of Community Colleges shall transfer the amount of receipts and fees above those budgeted to the Equipment Reserve Fund."

Section 9.3.(b) If receipts for community college tuition and fees exceed the amount certified in General Fund Codes at the end of the 1998-99 fiscal year, the State Board of Community Colleges shall transfer the amount of receipts and fees above those budgeted to the Equipment Reserve Fund.

Section 9.3.(c) Section 9.3.(b) becomes effective June 30, 1999.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

FINANCIAL ASSISTANCE FOR COMMUNITY COLLEGE STUDENTS

Section 9.4.(a) Of the funds appropriated to the Community Colleges System Office for the 1999-2001 fiscal biennium, the sum of five million dollars ($5,000,000) for the 1999-2000 fiscal year and the sum of five million dollars ($5,000,000) for the 2000-2001 fiscal year

shall be used to provide the largest financial need-based student assistance program in the history of the North Carolina Community College System.

Students must apply for federal Pell Grants to be eligible for this program. It is the intent of the General Assembly that the Community College System make these financial aid funds available to the neediest students who are not eligible for other financial aid programs that fully cover the required educational expenses of these students. The State Board may use some of these funds as short-term loans to students who anticipate receiving the federal HOPE or Lifetime Learning Tax Credits.

The State Board of Community Colleges shall adopt rules and policies for the disbursement of the need-based financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds. These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance.

Section 9.4.(b) The State Board of Community Colleges shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax Credits and to actively encourage students to utilize these federal programs and funds.

Section 9.4.(c) G.S. 115D-40 is repealed.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

COMMUNITY COLLEGE FUNDING FLEXIBILITY

Section 9.5. A local community college may use all State funds allocated to it, except for Literacy Funds and Funds for New and Expanding Industries, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall include in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to meet the demands of the local community and to maintain a presence in all previously funded categorical programs.

The State Board may examine new State Aid allocation options that more closely align the allocation and expenditure of State-appropriated resources.

Funds appropriated for salary increases shall be used only for salary increases and necessary employer contributions.

The General Assembly recognizes that the Community College System has been required to transfer funds from the faculty salary line item in the funding formula during prior fiscal years to make up shortfalls in instructional and administrative support and in other cost items. To enable the Community College System to pay respectable faculty salaries and at the same time maintain the quality of the instructional programs, the General Assembly is providing an

additional eight million dollars ($8,000,000) in expansion funds for instructional and administrative support and an additional ten million dollars ($10,000,000) in expansion funds for other cost items. It is the intent of the General Assembly that no transfers be made from the formula salary line item and that faculty salary funds be used to enhance full-time and part-time faculty salaries and, where appropriate, to move part-time faculty members to full-time faculty status. Therefore, transfers made in college budgets from faculty salaries to other purposes shall be made only after public notice and notice to the faculty. No more than two percent (2%) systemwide may be transferred from faculty salaries without the approval of the State Board of Community Colleges. The State Board shall report on any such transfers above two percent (2%) systemwide to the Joint Legislative Commission on Governmental Operations at its next meeting.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

STATE BOARD RESERVE ALLOCATIONS

Section 9.6.(a) The State Board of Community Colleges shall use funds from the State Board Reserve in the amount of one hundred thousand dollars ($100,000) for each fiscal year to assist small rural low-wealth community colleges with operation and maintenance of plant costs if they need to assist new or expanding industries in their service delivery areas.

Section 9.6.(b) The State Board of Community Colleges shall use funds from the State Board Reserve in the amount of forty thousand dollars ($40,000) for the 1999-2000 fiscal year to support the recruitment activities of the North Carolina Industries for Technical Education (NCITE). NCITE recruits students to community colleges with Heavy Equipment and Transportation Technology Programs in an effort to revitalize those programs.

Section 9.6.(c) The State Board of Community Colleges, in consultation with Cape Fear Community College, Brunswick Community College, and Southeastern Community College, shall use funds from the State Board Reserve in the amount of one hundred thousand dollars ($100,000) for the 1999-2000 fiscal year for planning a Southeastern North Carolina Regional Fire Training Program and twenty thousand dollars ($20,000) for the 1999-2000 fiscal year for other fire training programs.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Owens, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

PERMIT TRANSFERS OF FUNDS TO THE NEW AND EXPANDING INDUSTRY TRAINING PROGRAM

Section 9.7. The General Assembly finds that the New and Expanding Industry Training Program:

(1) Assists companies creating new jobs in North Carolina by providing training for new employees;
(2) Provides customized training to new or prospective employees in specific job skills needed by new or expanding industries; and
(3) Supports local, regional, and State economic development goals by offering entry-level training at no cost to companies that are creating new jobs in the State.

The General Assembly further finds that due to the extraordinary growth of new and expanding industry in the State, funds appropriated to the Program may be inadequate to meet demand for Program services during the 1999-2000 fiscal year; therefore, notwithstanding G.S. 143-16.3, G.S. 143-23, or any other provision of law, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from any agency or program funded from the General Fund to the New and Expanding Industry Training Program to supplement the needs of this Program during the 1999-2000 fiscal year.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Moore, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

ADULT EDUCATION PROGRAM/REVIEW

Section 9.8. The State Board of Community Colleges shall review the Adult High School Program to determine the extent to which the Program is aligned with recent public school reforms including course content standards, end-of-course tests, appropriate aspects of the high school accountability system, publication of test results, and high school exit exams that will be implemented by 2003. After completion of this review, the Board shall direct and advise local colleges on steps necessary to ensure that the Program is adequately aligned with recent public school reforms.

The Board shall report to the Joint Legislative Education Oversight Committee prior to April 15, 2000, on the implementation of this section.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

MANAGEMENT INFORMATION SYSTEM FUNDS

Section 9.9.(a) Funds appropriated for the Community College System Office Management Information System shall not revert at the end of the 1999-2000 and 2000-2001 fiscal years but shall remain available until expended.

Section 9.9.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Gillespie, Thompson, Buchanan, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Garwood, Plyler, Perdue, Odom

EXTEND COMMUNITY COLLEGE BOND MATCH DEADLINE

Section 9.10.(a) Section 6(b)IV of Chapter 542 of the 1993 Session Laws, as added by Section 4 of Chapter 515 of the 1995 Session Laws and rewritten by Section 10(a) of S.L. 1998-212, reads as rewritten:

"IV. If the State Board of Community Colleges determines that a community college has not met the matching requirements of G.S. 115D-31(a)(1) by July 1, ~~1999,~~ 2000, with respect to a capital improvement project for which bond proceeds are allocated in subdivision I or pursuant to subdivision II of this subsection, the Board shall certify that fact to the State Treasurer by October 1, ~~1999,~~ 2000. All of these bond proceeds with respect to which the Board certifies that the matching requirement has not been met by July 1, ~~1999,~~ 2000, shall be placed by the State Treasurer in a special account within the Community Colleges Bond Fund and shall be used for making grants to community colleges. Bond proceeds in the special account shall be allocated among the community colleges in accordance with the following conditions:

(1) The State Board of Community Colleges shall generate, by October 1, ~~1999,~~ 2000, a priority ranking of legitimate community college capital improvement needs using a formula based on objective meaningful factors relevant to capital needs, including space to population ratio, population served ratio, capacity enrollment ratio, local to State and vocational education ratios, type of project, and readiness to implement.

(2) The State Board of Community Colleges shall provide the State Treasurer a projected allocation of the proceeds in the special account in accordance with this priority ranking, except that:

a. No projected allocation shall be made for a community college that the Board certified in accordance with this subdivision IV had failed to meet a matching requirement.

b. No more than four million dollars ($4,000,000) shall be allocated to a single community college.

c. Funds shall not be allocated for more than one project per community college.

(3) The proceeds of grants made from bond proceeds in the special account shall be allocated and expended for paying the cost of community college capital improvements in accordance with this allocation by the State Board of Community Colleges, to the extent and as provided in this act. The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the North Carolina Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other

project itemized in this section, or to increase the amount allocated to a particular community college within the aggregate amount of funds available under this section. The Director of the Budget shall consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes."

Section 9.10.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Perdue, Dalton, Lee, Plyler, Odom, Kerr

EMPLOYMENT SECURITY COMMISSION TRAINING AND EMPLOYMENT ACCOUNT FUNDS

Section 9.11.(a) Contingent upon enactment of House Bill 275, 1999 General Assembly, there is appropriated from the Employment Security Commission Training and Employment Account created in G.S. 96-6.1, as enacted by House Bill 275, 1999 General Assembly, to the Community Colleges System Office the sum of twenty-two million dollars ($22,000,000) for the 1999-2000 fiscal year and the sum of fifty-six million five hundred thousand dollars ($56,500,000) for the 2000-2001 fiscal year. If House Bill 275, 1999 Session, provides an expenditure schedule or source of funds different from that provided in this section, then House Bill 275, 1999 Session, prevails to the extent of the conflict. These funds shall be used as follows:

	1999-2000	2000-2001
1. Nonreverting Equipment, Technology, and MIS Reserve	$12,000,000	$42,500,000
2. Nonreverting Start-Up Fund for Regional and Cooperative Initiatives	$ 3,000,000	$ 3,000,000
3. New and Expanding Industry Training Program	$ 6,000,000	$9,000,000
4. Enhanced Focused Industrial Training Programs	$ 1,000,000	$ 2,000,000
TOTAL:	$22,000,000	$56,500,000

Funds allocated for the Nonreverting Start-Up Fund for Regional and Cooperative Initiatives shall be used for community college projects that foster regional cooperation among community colleges, between public schools and community colleges, and between universities and community colleges.

Section 9.11.(b) Contingent upon enactment of House Bill 275, 1999 General Assembly, there is appropriated from the Employment Security Commission Training and Employment Account created in G.S. 96-6.1, as enacted by House Bill 275, 1999 General Assembly, to the Employment Security Commission the sum of five million five hundred thousand dollars ($5,500,000) for the 1999-2000 fiscal year and the sum of fourteen million one hundred thousand dollars ($14,100,000) for the 2000-2001 fiscal year for the costs of collecting and administering the new training and reemployment contribution and for enhanced reemployment services.

Section 9.11.(c) To the extent that the State receives more in the Employment Security Commission Training and Employment Account than the funds appropriated in subsections (a) and (b) of this section:

(1) Eighty percent (80%) of these funds are hereby appropriated for the 1999-2000 fiscal year and the 2000-2001 fiscal year to the Community Colleges System Office for the purposes set out in subsection (a) of this section and the State Board of Community Colleges may allocate the additional funds for those purposes; and

(2) Twenty percent (20%) of these funds are hereby appropriated to the Employment Security Commission for the 1999-2000 fiscal year and the 2000-2001 fiscal year, and it may allocate the additional funds for those purposes.

Section 9.11.(d) Funds appropriated in this section shall be used for nonrecurring expenses only and shall not obligate the State financially in future fiscal years. Funds appropriated in this section shall not be used to supplant funds from other sources.

Section 9.11.(e) The Community Colleges System Office and the Employment Security Commission shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2000, on proposed expenditures of these funds and prior to May 1 of subsequent years on actual expenditures.

Section 9.11.(f) The Community Colleges System Office, the Department of Commerce, and the Employment Security Commission shall jointly develop a list of options for delivering workforce training more efficiently and more effectively. These options shall include one-stop job placement and career centers. The Community Colleges System Office, the Department of Commerce, and the Employment Security Commission shall report on these options to the Joint Legislative Education Oversight Committee prior to May 1, 2000.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

CLARIFICATION OF CERTAIN COMMUNITY COLLEGE APPROPRIATIONS

Section 9.12. Notwithstanding G.S. 115D-31 or any other provision of law, no non-State match is required for funds

appropriated in S.L. 1998-212 for community college capital projects or for community college matching scholarship endowment funds, or for funds appropriated in this act for grants-in-aid for community colleges.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

COMMUNITY COLLEGE RESERVE FUNDS DO NOT REVERT

Section 9.13.(a) Funds appropriated to the Anson-Union Community College Reserve in S.L. 1998-212 shall not revert at the end of the fiscal year but shall remain available for expenditure by the new community college.

Section 9.13.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

COMMUNITY COLLEGE CONSTRUCTION FLEXIBILITY/STUDY

Section 9.14. The Joint Legislative Education Oversight Committee may study the need to streamline the community college capital construction process. In the course of the study, the Committee may consider the need to authorize pilot sites to determine the effect of various options for streamlining the process. The Committee may report its findings and recommendations to the General Assembly prior to May 1, 2000.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Kerr, Plyler Perdue, Odom

NO TUITION OR FEES FOR VOLUNTEER FIREFIGHTERS AND EMS WORKERS

Section 9.15. Notwithstanding G.S. 115D-5 or any other provision of law, the State Board of Community Colleges shall not charge tuition or fees to volunteer firefighters and volunteer EMS workers for courses required for certification.

PART X. UNIVERSITIES

Requested by: Representatives Rogers, Boyd-McIntyre, Oldham, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Perdue, Plyler, Odom

AID TO STUDENTS ATTENDING PRIVATE COLLEGES PROCEDURE

Section 10.(a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to one thousand fifty dollars ($1,050) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1,

1999, for the 1999-2000 fiscal year and up to one thousand fifty dollars ($1,050) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1, 2000, for the 2000-2001 fiscal year.

These funds shall be placed in a separate, identifiable account in each eligible institution's budget or chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be available for the tuition grant program as defined in subsection (b) of this section.

Section 10.(b) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, not to exceed one thousand seven hundred fifty dollars ($1,750) for the 1999-2000 academic year and one thousand seven hundred fifty dollars ($1,750) for the 2000-2001 academic year, which shall be distributed to the student as hereinafter provided.

The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall not approve any grant until it receives proper certification from an approved institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the State Education Assistance Authority shall remit at such times as it shall prescribe the grant to the approved institution on behalf, and to the credit, of the student.

In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on behalf of the students.

In the event there are not sufficient funds to provide each eligible student with a full grant:

(1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a) and (b) of this section; and

(2) Each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

Any remaining funds shall revert to the General Fund.

Section 10.(c) Expenditures made pursuant to this section may be used only for secular educational purposes at nonprofit institutions of higher learning. Expenditures made pursuant to this section shall not be used for any student who:

(1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or

(2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years.

Section 10.(d) The State Education Assistance Authority shall document the number of full-time equivalent North Carolina undergraduate students that are enrolled in off-campus programs and the State funds collected by each institution pursuant to G.S. 116-19 for those students. The State Education Assistance Authority shall also document the number of scholarships and the amount of the scholarships that are awarded under G.S. 116-19 to students enrolled in off-campus programs. An "off-campus program" is any program offered for degree credit away from the institution's main permanent campus.

The State Education Assistance Authority shall include in its annual report to the Joint Legislative Education Oversight Committee the information it has compiled and its findings regarding this program.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

AID TO PRIVATE COLLEGES/LEGISLATIVE TUITION GRANT LIMITATIONS

Section 10.1.(a) No Legislative Tuition Grant funds shall be expended for a program at an off-campus site of a private institution, as defined in G.S. 116-22(1), established after May 15, 1987, unless (i) the private institution offering the program has previously notified and secured agreement from other private institutions operating degree programs in the county in which the off-campus program is located or operating in the counties adjacent to that county or (ii) the degree program is neither available nor planned in the county with the off-campus site or in the counties adjacent to that county.

An "off-campus program" is any program offered for degree credit away from the institution's main, permanent campus.

Section 10.1.(b) Any member of the armed services, as defined in G.S. 116-143.3(a), abiding in this State incident to active military duty, who does not qualify as a resident for tuition purposes, as defined under G.S. 116-143.1, is eligible for a legislative tuition grant pursuant to this section if the member is enrolled as a full-time

student. The member's legislative tuition grant shall not exceed the cost of tuition less any tuition assistance paid by the member's employer.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

WAKE FOREST AND DUKE MEDICAL SCHOOLS ASSISTANCE/FUNDING FORMULA

Section 10.2.(a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second-year, third-year, and fourth-year students in the medical school as of November 1, 1999, and November 1, 2000. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars ($8,000) for each medical student who is a North Carolina resident, one thousand dollars ($1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year may not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at the University of North Carolina at Chapel Hill.

Disbursement to Duke University shall be made in the amount of five thousand dollars ($5,000) for each medical student who is a North Carolina resident, five hundred dollars ($500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the medical school. No individual student may be awarded assistance from this fund in excess of two thousand dollars ($2,000) each year. In addition to this basic disbursement for each year of the biennium, a disbursement of one thousand dollars ($1,000) shall be made for each medical student who is a North Carolina resident in the first-year, second-year, third-year, and fourth-year classes to the extent that enrollment of each of those classes exceeds 30 North Carolina students.

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to eligible students. The Board of Governors shall adopt rules for determining which students are residents of North Carolina for the purposes of these programs. The Board shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students toward primary care, consistent with

the directives of G.S. 143-613(a). The two schools shall supply information necessary for the Board to comply with G.S. 143-613(d).

Section 10.2.(b) If the funds appropriated in this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University are insufficient to cover the enrolled students in accordance with this section, then the Board of Governors may transfer unused funds from other programs in the Related Educational Programs budget code to cover the extra students.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

REWARDING TEACHING EXCELLENCE PROGRAM FUNDS

Section 10.3. Funds appropriated in this act for the Rewarding Teaching Excellence Program shall be distributed according to guidelines established by the Board of Governors of The University of North Carolina. These funds shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

SCHOLARSHIP FUND BALANCES

Section 10.6. Fund balances remaining in the Social Workers' Education Loan Fund shall be transferred to the Nursing Scholars Program fund balance to implement the reductions in appropriations for scholarships in the 1999-2000 fiscal year.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom, Warren

EAST CAROLINA UNIVERSITY MEDICAL SCHOOL

Section 10.7. East Carolina University shall transfer two million dollars ($2,000,000) from the East Carolina University Medicare Reimbursement Trust Fund (26066) established by G.S. 116-36.6 to the East Carolina University School of Medicine General Fund operating fund (16066) for current expenses for fiscal year 1999-2000.

Requested by: Representatives Hardaway, Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Ballance, Dannelly, Jordan, Lucas, Martin of Guilford, Shaw of Cumberland, Perdue, Plyler, Odom

UNC ENROLLMENT PLANNING

Section 10.8.(a) The University of North Carolina faces an increase in student enrollment of 48,000 students over the next 10 years, primarily at the undergraduate level. The Board of Governors

of The University of North Carolina has adopted plans for meeting this large increase. These plans call for 10 constituent institutions to enroll a larger share of the new enrollments. Of these 10 institutions, seven currently have underutilized capacity. These seven schools (Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, the University of North Carolina at Pembroke, Western Carolina University, and Winston-Salem State University) are expected to grow by twenty percent (20%) by fall, 2003.

Section 10.8.(b) Of the funds appropriated to the Board of Governors of The University of North Carolina for a "Strategic Initiatives Reserve", for the 1999-2000 fiscal year, the sum of two million dollars ($2,000,000) of the reserve shall be used to perform campus assessments and develop enrollment growth plans for the seven constituent institutions designated as growing twenty percent (20%) by fall, 2003 in the Board of Governors' enrollment plan. The Board of Governors shall report to the Joint Legislative Education Oversight Committee by April 15, 2000, on the use of the funds and on any additional needs identified by the plans.

Section 10.8.(c) Of the funds appropriated to the Board of Governors of The University of North Carolina, the sum of three million dollars ($3,000,000) in continuing operating funds shall be allocated to carry out the Board of Governors' plans for those campuses planning for rapid enrollment growth whose current enrollment is less than 5,000 full-time equivalent (FTE) students. The intent for this allocation is to promote greater operating efficiencies through budget flexibility for those constituent institutions lacking sufficient size to provide for economies of scale.

Section 10.8.(d) Of the funds appropriated to the Board of Governors of The University of North Carolina, the sum of three million dollars ($3,000,000) in continuing operating funds shall be allocated for improvement of faculty instruction at the seven campuses targeted for major enrollment growth. The improvements shall be based on plans approved by the Board of Governors for hiring of new faculty, salary improvements, faculty development, or other initiatives that will improve instruction for students, especially undergraduate students. The Board of Governors shall report to the Joint Legislative Education Oversight Committee by April 15, 2000, on the allocation and proposed use of these funds.

Section 10.8.(e) Of the funds appropriated to the Board of Governors of The University of North Carolina, the sum of two million dollars ($2,000,000) in continuing operating funds shall be allocated for the enhancement of development offices at the smaller institutions. The goal of this funding is to increase the ability of these institutions to raise funds from the private sector and enhance the institutions' abilities to leverage State and other resources with private donations.

Section 10.8.(f) Of the funds appropriated to the Board of Governors of The University of North Carolina, the sum of one

million dollars ($1,000,000) in continuing operating funds shall be allocated to further develop facilities management support for the smaller campuses facing rapid growth and having greater than average needs for renovation and repair of existing facilities. Funds may be allocated directly to the institutions needing assistance or may be dedicated to providing the assistance needed by other methods. The Board of Governors shall report to the Joint Legislative Education Oversight Committee on the allocation and use of these funds by April 15, 2000.

Section 10.8.(g) Of the funds appropriated by this act to the Board of Governors of The University of North Carolina, the sum of one million dollars ($1,000,000) shall be used on a continuing basis by the Board of Governors to prevent reductions in faculty positions for the seven growth constituent institutions identified in subsection (a) of this section if these institutions are projected to have budget reductions based on current enrollment estimates.

The Board of Governors shall report to the Joint Legislative Education Oversight Committee by December 15 of each year on enrollment planning, current and anticipated growth, and management of capacity to meet the demands for higher education in North Carolina. These reports shall continue through December 2005.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

GRADUATE TUITION REMISSION

Section 10.9. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina the sum of three million five hundred thousand dollars ($3,500,000) shall be allocated to campuses having graduate programs and students eligible for graduate tuition remission or resident graduate tuition awards. None of these funds may be allocated to the Research I institutions.

Requested by: Representatives Redwine, Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Senators Dalton, Lee, Perdue, Plyler, Odom

UNC-WILMINGTON RETAIN LAND SALE PROCEEDS

Section 10.10. The University of North Carolina at Wilmington may retain the proceeds from the sale of real property which is the site of the old Marine Science Center near Wrightsville Beach to use for the completion and equipping of the new Marine Science Center currently under construction.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Perdue, Plyler, Odom

EXPLANATION OF FEDERAL TAX CREDITS AVAILABLE FOR EDUCATIONAL PURPOSES

Section 10.11. Each constituent institution of The University of North Carolina and each community college shall provide to students and their families a brief, clear explanation of federal tax credits (the HOPE and Lifetime Learning Credits) that are available for educational purposes. The explanation shall include the limitations of the credits as well as examples of the potential benefits under certain tax situations. The constituent institution shall provide the tax credit information to the student and the student's parents when the institution notifies each of the amount of tuition and fees paid for a calendar year.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

NORTH CAROLINA PROGRESS BOARD

Section 10.12.(a) Part 2A of Article 9 of Chapter 143B of the General Statutes reads as rewritten:

"Part 2A. North Carolina Progress Board.

"§ *143B-372.1. North Carolina Progress Board.*

(a) ~~There~~ The North Carolina Progress Board is ~~established within the Department of Administration the North Carolina Progress Board.~~ established. The Board shall be located administratively in the ~~Department of Administration~~ Board of Governors of The University of North Carolina and is located at North Carolina State University, but shall exercise all its prescribed statutory powers independently of the ~~Department of Administration.~~ Board of Governors.

(b) The North Carolina Progress Board shall consist of ~~14~~ 21 members of statewide prominence as follows:

(1) The Governor, ex officio;

(2) ~~Seven~~ Eight persons appointed by the Governor, none of whom shall be State employees or officers;

(3) ~~Three~~ Four persons appointed by the Speaker of the House of ~~Representatives; and~~ Representatives, one of whom shall be a member of the House of Representatives;

(4) ~~Three~~ Four persons appointed by the President Pro Tempore of the ~~Senate.~~ Senate, one of whom shall be a member of the Senate; and

(5) Four persons appointed by the North Carolina Progress Board.

(c) The Governor shall be chair of the North Carolina Progress Board. The Governor shall appoint a vice-chair from among the membership of the North Carolina Progress Board to serve at the pleasure of the Governor. The North Carolina Progress Board may elect such other officers as it sees fit.

(d) The North Carolina Progress Board shall meet at least twice annually on the call of the chair or as additionally provided by the North Carolina Progress Board. A quorum is ~~eight~~ 11 members of the Board. Members may not send designees to board meetings, nor may they vote by proxy.

(e) ~~Initial~~ Board appointments shall be for terms to begin ~~July 1, 1995.~~ July 1, 1999, with subsequent appointments to be made as terms expire or resignations occur. Of the Governor's appointments, ~~four~~ two shall be for one-year terms, two shall be for two-year ~~terms~~ terms, two shall be for three-year terms, and ~~three~~ two shall be for four-year terms. Of the appointments made by the Speaker of the House of ~~Representatives and~~ Representatives, the President Pro Tempore of the Senate, and the North Carolina Progress Board, one member appointed by each shall be appointed for a one-year term, one member appointed by each shall be appointed ~~one shall be~~ for a two-year ~~term~~ term, one member appointed by each shall be appointed for a three-year term, and ~~two shall be~~ one member appointed by each shall be appointed for a four-year term. As terms expire, successors shall be appointed for four-year terms.

(f) No member may be appointed to more than two consecutive terms. A member of the House of Representatives appointed by the Speaker of the House vacates membership on the North Carolina Progress Board when that person is no longer a member of the House of Representatives, except that if that person is in office at the expiration of the term of office in the House of Representatives but has not been elected to the next term, that person shall continue to serve until the convening of the regular session. A member of the Senate appointed by the President Pro Tempore of the Senate vacates membership on the North Carolina Progress Board when that person is no longer a member of the Senate, except that if that person is in office at the expiration of the term of office in the Senate but has not been elected to the next term, that person shall continue to serve until the convening of the regular session.

"§ *143B-372.2. Responsibilities.*

(a) The General Assembly notes that the Commission for a Competitive North Carolina developed goals in the following categories:

(1) Healthy Children and Families;
(2) Quality Education for All;
(3) A High Performance Workforce;
(4) A Prosperous Economy;
(5) A Sustainable Environment;
(6) Technology and Infrastructure Development;
(7) Safe and Vibrant Communities; and
(8) Active Citizenship/Accountable Government.

The Commission for a Competitive North Carolina adopted a report which established major goals and ways to measure progress toward these goals.

(a1) The General Assembly finds that the North Carolina Progress Board developed a report that focused on four of the Commission's recommended topics and issued 16 major targets for 2010. The objectives of the targets are to drive the State toward (i) a more expansive vision of education and environmental protection, (ii)

strengthening families, and (iii) bringing more people into the economic mainstream.

(b) The General Assembly finds that:

(1) The North Carolina economy of the future can provide unparalleled opportunity while maintaining North Carolina's traditional values, if the State pursues the future with clarity of purpose and perseverance;

(2) The North Carolina economy is in the midst of a massive transition created by technological changes, global competition, and new production practices; and

(3) In order to maintain employment opportunities, increase income levels, reduce poverty, and generate the public revenues necessary to provide public services, North Carolina must increasingly rely on an economy which adds value to its natural and human resources and provides a diverse mix of products.

(c) The North Carolina Progress Board shall:

(1) Encourage the discussion and understanding of critical global and national social and economic trends that will affect North Carolina in the coming decades;

(2) Examine the report of the Commission for a Competitive North ~~Carolina;~~ Carolina and the 1997 report of the North Carolina Progress Board to the General Assembly;

(3) Track the eight issue areas set out in subsection (a) of this ~~section;~~ section and the objectives set out in subsection (a1) of this section and other issues identified by the Progress Board. The Progress Board may, upon vote of the Board, add to those issues identified by its predecessor Commission and Board;

(4) Hold public hearings and other methods of public ~~participation~~ participation, including educational and outreach programs, to secure the views of citizens on priority goals for North ~~Carolina;~~ Carolina and to disseminate findings and recommendations to policymakers;

(5) Formulate and submit to North Carolinians a report every five years, beginning 2001, that updates the 20- to 30-year vision for North Carolina and that describes and explains a vision for North Carolina's progress over the next 20 to 30 years;

(6) Submit a report to the ~~1997 Regular Session of the~~ General Assembly prior to its ~~convening,~~ convening the regular session every odd-numbered year, which reports on social and economic trends and issues specific targets and milestones to accomplish its mission;

(7) Recommend how the targets and milestones can be applied to increase the accountability of government to the people of this State; ~~and~~

(8) Report periodically to the people of North Carolina on progress toward meeting goals, targets, and ~~milestones.~~ milestones;

(9) Undertake new and ongoing policy research and benchmarking studies;

(10) Publish and distribute periodic reports on policies, performance improvement, and best practices for meeting the long-term goals for the State; and

(11) May apply for and accept gifts or grants.

(d) The Regular Session of the General Assembly shall further define the mission of the North Carolina Progress Board in continuing its work.

(e) The General Assembly, after adopting the initial set of goals and measures as proposed or amended, may alter the goals and measures.

"§ *143B-372.3. Staff.*

(a) ~~The North Carolina Progress Board may hire an executive director, who may be dismissed by the North Carolina Progress Board.~~ The Chancellor of North Carolina State University shall appoint an Executive Director who shall serve at the pleasure of the Chancellor. The Executive Director shall report to the North Carolina Progress ~~Board.~~ Board and the Chancellor. The Executive Director shall hire or contract with support ~~staff and may dismiss them.~~ staff, who shall work at the pleasure of the Executive Director.

(b) ~~There may be an Executive Staff Committee to assist the North Carolina Progress Board which shall consist of the Executive Director, if hired, the State Budget Officer, the State Planning Officer, and the Director of Fiscal Research.~~

~~(c) The State Budget Office and the State Planning Office shall also provide staff support to the North Carolina Progress Board.~~ The Office of State Budget and Management and the Office of State Planning shall also provide support, information, reports, and other assistance to the North Carolina Progress Board as requested."

Section 10.12.(b) Funds appropriated for the 1998-99 fiscal year in S.L. 1998-212 for operating support of the North Carolina Progress Board to the Department of Commerce that are unexpended as of June 30, 1999, shall not revert but shall be transferred to North Carolina State University to support the operations of the North Carolina Progress Board. This section is effective June 30, 1999.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Lee, Dalton, Perdue, Plyler, Odom, Rand

UNC OVERHEAD RECEIPTS

Section 10.13. Effective July 1, 1999, all overhead receipts earned by constituent institutions of The University of North Carolina shall be retained at the campus earning the receipts.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

UNC GENERAL ADMINISTRATION FLEXIBILITY

Section 10.14.(a) G.S. 116-30.3 is amended by adding a new subsection to read:

"(e) Notwithstanding G.S. 143-18, of the General Fund current operations appropriations credit balance remaining in Budget Code 16010 of the Office of General Administration of The University of North Carolina, any amount of the General Fund appropriation for that fiscal year may be carried forward in that budget code to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. However, the amount carried forward under this subsection shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The Director of the Budget, under the authority set forth in G.S. 143-25, shall establish the General Fund current operations credit balance remaining in Budget Code 16010 of the Office of General Administration of The University of North Carolina. The funds shall not be used to support positions."

Section 10.14.(b) G.S. 116-14 reads as rewritten:

"*§ 116-14. President and staff.*

(a) The Board shall elect a President of the University of North Carolina. ~~He~~ The President shall be the chief administrative officer of the University.

(b) The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Article, who shall be elected by the Board on nomination of the President. The Board shall fix the compensation of the staff members it elects. These staff members shall include a senior vice-president and such other vice-presidents and officers as may be deemed desirable. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Article, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. Subject to approval by the Board, the President may establish and abolish employment positions within the staff complement authorized by this subsection in the manner of and

under the conditions prescribed by G.S. 116-30.4 for special responsibility constituent institutions.

(b1) The President shall receive General Fund appropriations made by the General Assembly for continuing operations of The University of North Carolina that are administered by the President and the President's staff complement established pursuant to G.S. 116-14(b) in the form of a single sum to Budget Code 16010 of The University of North Carolina in the manner and under the conditions prescribed by G.S. 116-30.2. The President, with respect to the foregoing appropriations, shall have the same duties and responsibilities that are prescribed by G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The President may establish procedures for transferring funds from Budget Code 16010 to the constituent institutions for nonrecurring expenditures. The President may identify funds for capital improvement projects from Budget Code 16010, and the capital improvement projects may be established following the procedures set out in in G.S. 143-18.1.

(b2) The President, in consultation with the State Auditor and the Director of the Office of State Personnel, shall ascertain that the management staff and internal financial controls are in place and continue in place to successfully administer the additional authority authorized under G.S. 116-14(b1) and G.S. 116-30.3(e). All actions taken by the President pursuant to G.S. 116-14(b1) and G.S. 116-30.3(e) are subject to audit by the State Auditor.

(c) The President, with the approval of the Board, shall appoint an advisory committee composed of representative presidents of the private colleges and universities and may appoint such additional advisory committees as are deemed necessary or desirable."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom, Warren, Martin of Guilford, Hagan, Garrou, Ballance, Dannelly, Jordan, Lucas, Shaw of Cumberland

UNC NEW DEGREE PROGRAM FUNDS

Section 10.16. Of the funds appropriated to the Board of Governors of The University of North Carolina for the 1999-2000 and the 2000-2001 fiscal years, the sum of one million three hundred forty thousand dollars ($1,340,000) is to be used for new program development. For the 1999-2000 fiscal year the Board shall allocate these funds to support newly authorized programs at East Carolina University, Elizabeth City State University, North Carolina Agricultural and Technical State University, North Carolina State University, the University of North Carolina at Charlotte, and Winston-Salem State University.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

MARTIN LUTHER KING RACE RELATIONS RESEARCH CENTER/STUDY SITE LOCATION

Section 10.17. The Board of Governors of The University of North Carolina shall conduct a site study to determine where the Martin Luther King Race Relations Research Center should be located. The Board of Governors shall submit in writing to the 1999 General Assembly, Regular Session 2000 its findings and recommendation regarding the site location.

Requested by: Representatives Blue, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom, Ballance

NCCU BIOMEDICAL/BIOTECHNOLOGY RESEARCH INSTITUTE FUNDS

Section 10.18. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina the sum of one million five hundred thousand dollars ($1,500,000) for the 1999-2000 fiscal year and the sum of three hundred fifty thousand dollars ($350,000) for the 2000-2001 fiscal year shall be allocated to North Carolina Central University for the operations of the Biomedical/Biotechnology Research Institute.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Hardaway, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom, Rand

FACULTY SALARY STUDY

Section 10.20.(a) In order to attract and retain the best academic professionals, maintain the level of excellence for which North Carolina's public universities are known, and maximize the learning opportunities for students, the Board of Governors of The University of North Carolina shall study the salaries and other compensation of faculty of the constituent institutions of The University of North Carolina. The Board shall evaluate the salaries and other compensation of faculty for each institution in comparison to other peer institutions within the State, region, and country and shall make recommendations on appropriate adjustments to faculty salaries and other compensation to achieve competitive levels with other peer institutions and maintain and enhance academic excellence on each campus within The University of North Carolina System. In addition, the Board shall identify revenue options for funding adjustments to faculty salaries and other compensation to achieve the recommended adjustments.

Section 10.20.(b) The Board of Governors shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee no later than December 1, 1999.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Hartsell, Lee, Dalton, Perdue, Plyler, Odom

STUDY PREPAID TUITION PLANS AND COLLEGE SAVINGS PLANS

Section 10.21. The Board of Governors of The University of North Carolina shall study the structure, management, and use of prepaid tuition plans and college savings plans in North Carolina and make recommendations to the Joint Legislative Education Oversight Committee regarding how to make the plans more attractive to parents and grandparents in saving for college costs. In conducting the study, the Board of Governors shall consult with private colleges and universities and the Community Colleges System Office and shall also consider similar plans of other states, including Iowa and New York. The Board of Governors shall report its recommendations to the Joint Legislative Education Oversight Committee by April 1, 2000.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom, Weinstein, Martin of Guilford, Hagan

UNC CARRYFORWARD

Section 10.22.(a) Of the funds remaining in The University of North Carolina General Administration General Fund budget code 16010 credit balance on June 30, 1999, an amount of four hundred thousand dollars ($400,000) shall not revert to the General Fund but shall be carried forward for allocation by the Board of Governors. These funds may be used to assist the University of North Carolina at Pembroke in funding an addition to the Chancellor's residence and to assist North Carolina Agricultural and Technical State University in purchasing a new Chancellor's residence.

Section 10.22.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Kerr, Perdue, Plyler, Odom, Dalton, Lee

UNC ANOREXIA/BULIMIA ENDOWED CHAIR

Section 10.23. Of the funds appropriated from the General Fund to the Board of Governors of The University of North Carolina the sum of four hundred thousand dollars ($400,000) for the 1999-2000 fiscal year shall be used to endow a chair for the study of anorexia and bulimia at the University of North Carolina at Chapel Hill School of Medicine, provided that the sum of two hundred thousand dollars ($200,000) is raised by The Anorexia/Bulimia Foundation of North Carolina or other private sources to match this appropriation. These funds shall not revert but shall be held in trust pending the receipt of the required matching funds.

PART XI. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART 1. ADMINISTRATION

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

RECODIFICATION OF ADMINISTRATIVE RULES

Section 11. The Codifier of Rules may reorganize Titles 10 and 15A of the North Carolina Administrative Code to reflect the recent reorganization of the Department of Health and Human Services and the Department of Environment and Natural Resources. The reorganization of the Code may include replacing Title 10 with a new Title 10A if desirable for clarity. The Codifier of Rules may make changes in the text of the affected rules to reflect changes in organizational structure of the Department of Health and Human Services and the Department of Environment and Natural Resources. So long as the changes in text do not change the substance of the rules, the reorganization by the Codifier is exempt from the requirements of Chapter 150B of the General Statutes and does not require the review or approval of the Rules Review Commission.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Forrester, Plyler, Perdue, Odom

PRESCRIPTION DRUG ASSISTANCE PROGRAM

Section 11.1.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year and the sum of five hundred thousand dollars ($500,000) for the 2000-2001 fiscal year shall be used to pay the cost of outpatient prescription drugs for persons:

(1) Over the age of 65 years and not eligible for full Medicaid benefits;
(2) Whose income is not more than one hundred fifty percent (150%) of the federal poverty level; and
(3) Who have been diagnosed with cardiovascular disease or diabetes.

These funds shall be used to pay the cost of outpatient prescription drugs for the treatment of cardiovascular disease or diabetes. Payment shall be not more than the Medicaid cost including rebates. The Department shall develop criteria to maximize the efficient and effective distribution of these drugs.

Section 11.1.(b) The Department of Health and Human Services shall work with the Fiscal Research Division of the Legislative Services Office to develop a proposal for the establishment of a prescription drug assistance program. The purpose of the program shall be to serve low-income elderly and disabled persons who are not eligible for Medicaid and who need prescription drugs to treat a condition which, if left untreated, could result in the person's admission to a nursing facility or otherwise qualifying for Medicaid. The Department shall utilize the expertise of the Prescription Drug Work Group which authored "A Study of Options for Making Prescription Drugs More Affordable for Older Adults" to complete the analysis necessary for developing the proposal. In developing the proposal, the Department shall do the following:

(1) Identify health conditions that need prescription drug treatment and, if not treated, that can lead to nursing home admission or otherwise qualifying the person for Medicaid;
(2) Identify the group of low-income elderly and disabled persons in most need of assistance;
(3) Estimate the number of persons potentially eligible for assistance under the program;
(4) Identify appropriate limitations on levels of assistance;
(5) Estimate the cost of providing drug assistance and the cost of administering the program;
(6) Review similar programs in other states;
(7) Develop a simple and cost-effective system for administering a drug assistance program;
(8) Develop a timetable for program implementation; and
(9) Conduct other activities that will assist in the development of the proposal.

Section 11.1.(c) Not later than May 1, 2000, the Department shall report to the 1999 General Assembly, Regular Session 2000, with a complete proposal for a prescription drug assistance program. The report shall include several options for consideration by the General Assembly.

The Department of Health and Human Services shall explore ways to develop this public/private partnership so that private funds may be made available for this purpose in future fiscal years.

Requested by: Representatives Earle, Nye, Cansler, Easterling, Hardaway, Redwine, Baddour, Senators Martin of Guilford, Purcell, Plyler, Perdue, Odom

STUDY ON TRAUMATIC BRAIN INJURY

Section 11.2. The Department of Health and Human Services shall study the following:

(1) The long-range costs of treating and caring for persons with Traumatic Brain Injury; and
(2) The feasibility and cost to the State of obtaining a Home and Community-Based Medicaid Waiver to provide Medicaid services to 100 individuals with Traumatic Brain Injury and for administrative support to manage the waiver.

The Department shall report the results of its study to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources by May 1, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

DHHS EMPLOYEES/IN-KIND MATCH

Section 11.3. G.S. 143B-139.4 reads as rewritten:

"§ 143B-139.4. Department of Health and Human Services; authority to assist private nonprofit ~~foundations.~~ organizations.

(a) The Secretary of the Department of Health and Human Services may allow employees of the Department or provide other appropriate services to assist any private nonprofit ~~foundation~~ organization which works directly with services or programs of the Department and whose sole purpose is to support the services and programs of the Department. A Department employee shall be allowed to work with ~~a foundation~~ an organization no more than twenty hours in any one month. These services are not subject to the provisions of Chapter 150B of the General Statutes.

(b) The board of directors of each private, nonprofit ~~foundation~~ organization shall secure and pay for the services of the State Auditor's Office or employ a certified public accountant to conduct an annual audit of the financial accounts of the ~~foundation.~~ organization. The board of directors shall transmit to the Secretary of the Department a copy of the annual financial audit report of the private nonprofit ~~foundation.~~ organization.

(c) Notwithstanding the limitations of subsection (a) of this section, the Secretary of the Department of Health and Human Services may assign employees of the Office of Rural Health and Resource Development to serve as in-kind match to nonprofit organizations working to establish health care programs that will improve health care access while controlling costs."

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

ESTABLISHMENT OF DIVISION OF EDUCATION SERVICES/REVIEW OF DISABILITY SERVICES

Section 11.4.(a) Notwithstanding any other provision of law, the Secretary of the Department of Health and Human Services shall create a Division of Education Services to manage the Governor Morehead School and the three residential schools for the deaf. The Secretary may include in this new Division any or all of the schools and educational programs currently managed by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

The purpose of creating a Division of Education Services is to focus management attention and resources on the following:

(1) Improving student academic and postsecondary outcomes.
(2) Increasing staff development and training.
(3) Achieving administrative consistency and access to expert support services across campuses.
(4) Strengthening collaborative relationships with local education agencies and with the State Board of Education.

The Department's goals and plans for this new Division shall be consistent with the recommendations proposed by the Department in its report entitled, "Program Review of Disability Services," dated April 14, 1999.

The Division of Education Services shall be led by a Superintendent of Education Services. The Superintendent shall have

a strong background in public education. The Superintendent shall implement a support team of managers and specialists at the division-level which will include, at a minimum, individual managers responsible for business management services, clinical services, and early intervention services.

The Secretary shall make a progress report on the establishment and staffing of the Division of Education Services to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2000.

The Secretary shall continue to review, evaluate, and recommend opportunities for improving the utilization of campus resources for the benefit of special needs children statewide, including the possibilities for year-round schooling and postsecondary transitional programming. The Secretary shall report the results of this review to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Health and Human Services no later than April 1, 2000. The State Board of Education and the superintendents of the local education agencies in which the residential schools are located shall cooperate in this effort.

Section 11.4.(b) G.S. 143B-216.33(a)(2) is repealed.

Section 11.4.(c) The Secretary of the Department of Health and Human Services shall evaluate opportunities, within the limits of existing law, for reorganizing the administration and delivery of the Department's services to visually impaired, deaf and hard of hearing, and vocational rehabilitation clients. The goals of this evaluation shall be to improve services to clients and to maximize the use of existing resources for the benefit of clients served. The Secretary shall report any reorganization resulting from this evaluation to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Health and Human Services no later than April 1, 2000. Any reorganization under this subsection shall be within the limits of existing law.

Section 11.4.(d) The Department of Health and Human Services shall conduct a comprehensive review of the adequacy and effectiveness of its programs and services for deaf-blind adults and children. This review shall do each of the following:

(1) Identify gaps in delivering a continuum of services to deaf-blind individuals, including intervention and communication services, education services, housing, independent living services, employment, transportation, case management services, and consumer education and assistance.

(2) Assess the appropriateness, quality, and timeliness of available services, including requirements for staff development and training.

(3) Evaluate the effectiveness of various service delivery models.

(4) Ensure an effective organizational structure within the Department for managing the administration and delivery of these services.

The Department shall report its findings and recommendations to the members of the Senate Appropriations Committee on Human Resources, the House of Representative Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

ABCs PLAN IN DHHS SCHOOLS

Section 11.5.(a) The Department of Health and Human Services shall retain any unobligated portion of the nonrecurring funds appropriated by the 1997 General Assembly, 1998 Regular Session, to implement the ABCs Plan in the Governor Morehead School and the Schools for the Deaf.

Section. 11.5.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

PROCEDURE FOR AWARD OF HUMAN SERVICES GRANTS

Section 11.6. Of the funds appropriated in this act to the Department of Health and Human Services the sum of four million dollars ($4,000,000) for the 1999-2000 fiscal year shall be used for grants for programs that provide services to older adults, adults with disabilities, at-risk children, and youth and families.

In awarding grants, the Secretary shall consider the merits of the program, the benefit to the State and local communities of the program, and the cost of the program.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

NONMEDICAID REIMBURSEMENT CHANGES

Section 11.7. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program. Hospitals that provide psychiatric inpatient care for multiply diagnosed adults who were identified as members of the Thomas S. class at the time of dissolution of the class, and other multiply diagnosed adults may be paid an additional incentive payment not to exceed fifteen percent (15%) of their regular daily per diem reimbursement.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse

providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

Family Size	Medical Eye Care Adults	All Rehabilitation	Other
1	$ 4,860	$ 8,364	$ 4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,821	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred twenty-five percent (125%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

Income (% of poverty)	State Participation	Client Participation
0-125%	100%	0%

126-140%	90%	10%
141-160%	80%	20%
161-180%	70%	30%
181-200%	60%	40%
201-220%	50%	50%
221-240%	40%	60%
241-260%	30%	70%
261-280%	20%	80%
281-300%	10%	90%
301%-over	0%	100%.

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

LONG-TERM CARE CONTINUUM OF CARE

Section 11.7A.(a) The Department of Health and Human Services shall, in cooperation with other appropriate State and local agencies and representatives of consumer and provider organizations, develop a system that provides a continuum of long-term care for elderly and disabled individuals and their families. The Department shall define the system of long-term care services to include:

(1) A structure and means for screening, assessment, and care management across settings of care;
(2) A process to determine outcome measures for care;
(3) An integrated data system to track expenditures, consumer characteristics, and consumer outcomes;
(4) Relationships between the Department and the State's universities to provide policy analysis and program evaluation support for the development of long-term care system reforms;
(5) An implementation plan that addresses testing of models, reviewing existing models, evaluation of components, and steps needed to achieve development of a coordinated system; and
(6) Provision for consumer, provider, and agency input into the system design and implementation development.

Effective January 1, 2001, the system developed by the Department shall do the following:

(1) Implement the initial phase of a comprehensive data system that tracks long-term care expenditures, services, consumer profiles, and consumer preferences; and
(2) Develop a system of statewide long-term care services coordination and case management to minimize administrative costs, improve access to services, and minimize obstacles to the delivery of long-term care services to people in need.

Section 11.7A.(b) Prior to and during implementation of the system, the Department shall pursue strategies to provide alternative financing of long-term care services by shifting the balance of the financial responsibility for payment of long-term care services from public to private sources by promoting public-private partnerships and personal responsibility for long-term care. These strategies may include:

(1) Flexible use of reverse mortgages;
(2) Private insurance coverage for long-term care;
(3) Tax credits or employment programs such as medical savings accounts and deferred compensation plans for long-term care;
(4) Changes in Medicaid eligibility and asset protection requirements that increase consumers' financial responsibility for their long-term care such as revising the rules relating to the transfer of assets and estate recovery policies.

Section 11.7A.(c) Not later than April 15, 2000, the Department shall submit a progress report to the General Assembly, to the Chairs of the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources, and to the North Carolina Study Commission on Aging, on the development of the system required under subsection (a) of this section and whether a single division of the Department is an appropriate organizational structure for coordination of all long-term care in North Carolina. The progress report shall include a proposed budget and budget management plan for all publicly financed long-term care services available to older North Carolinians.

SUBPART 2. MEDICAL ASSISTANCE

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

TRANSFER OF CERTAIN FUNDS AUTHORIZED

Section 11.7B. In order to assure maximum utilization of funds in county departments of social services, county or district health agencies, and area mental health, developmental disabilities, and substance abuse services authorities, the Director of the Budget may transfer excess funds appropriated to a specific service, program, or fund, whether specified service in a block grant plan or General Fund appropriation, into another service, program, or fund for local services within the budget of the respective State agency.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

AUTHORIZATION TO EXPAND TRANSITIONAL MEDICAID

Section 11.8. Effective no earlier than October 1, 1999, the Department of Health and Human Services shall expand transitional Medicaid benefits for Work First families, including parents, from 12

months to 24 months. The Department shall structure the expansion in a way that maximizes the federal fund share in transitional Medicaid for 24 months. The Department shall apply for federal approval or waiver, as necessary, to effectuate the expansion required in this section.

Requested by: Representatives Earle, Nye, Alexander, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Purcell, Plyler, Perdue, Odom

ADDITIONAL DENTAL BENEFITS UNDER HEALTH INSURANCE PROGRAM FOR CHILDREN

Section 11.9. G.S. 108A-70.21(b)(1) reads as rewritten:

"(1) Dental: Oral examinations, teeth cleaning, and scaling twice during a 12-month period, full mouth X rays once every 60 months, supplemental bitewing X rays showing the back of the teeth once during a 12-month period, fluoride applications ~~once~~ twice during a 12-month period, sealants, simple extractions, therapeutic pulpotomies, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth. No benefits are to be provided for services under this subsection that are not performed by or upon the direction of a dentist, doctor, or other professional provider approved by the Plan nor for services and materials that do not meet the standards accepted by the American Dental Association."

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

ALLOCATION OF G.S. 143-23.2 MEDICAID FUNDS

Section 11.10.(a) Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of eighty-four million dollars ($84,000,000) for the 1999-2000 fiscal year and the sum of twenty-nine million dollars ($29,000,000) for the 2000-2001 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

Section 11.10.(b) G.S. 143-23.2(b) reads as rewritten:

"(b) Contributed funds shall be subject to the Department of Health and Human Services administrative control and shall be allocated only as specifically ~~as~~ provided in the current operations appropriations act, except such contributions shall not reduce State general revenue funding. At the end of any fiscal year, the unobligated balance of any such funds shall not revert to the General Fund, but shall be reappropriated for these purposes in the next fiscal year."

Requested by: Representatives Nye, Earle, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

STUDY INCREASE IN RESOURCE LIMITS FOR AGED, BLIND, DISABLED PERSONS TO QUALIFY FOR MEDICAID

Section 11.11. The Department of Health and Human Services shall conduct a study of the feasibility and cost to triple the amount of the resource limits for aged, blind, and disabled persons to qualify for Medicaid. The Department shall report the results of its study to members of the House Appropriations Subcommittee on Health and Human Services and the members of the Senate Appropriations Committee on Human Resources not later than May 1, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

MEDICAID ANTICIPATED CHANGES

Section 11.12.(a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

(1) Hospital-Inpatient - Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.

(2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.

(3) Nursing Facilities - Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare, must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program.

(4) Intermediate Care Facilities for the Mentally Retarded - As prescribed in the State Plan as established by the Department of Health and Human Services.

(5) Drugs - Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in

accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents ($5.60) per prescription. Adjustments to the professional services fee shall be established by the General Assembly.

(6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services - Fee schedules as developed by the Department of Health and Human Services. Payments for dental services are subject to the provisions of subsection (g) of this section.

(7) Community Alternative Program, EPSDT Screens - Payment to be made in accordance with rate schedule developed by the Department of Health and Human Services.

(8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment - Payment to be made according to reimbursement plans developed by the Department of Health and Human Services.

(9) Medicare Buy-In - Social Security Administration premium.

(10) Ambulance Services - Uniform fee schedules as developed by the Department of Health and Human Services.

(11) Hearing Aids - Actual cost plus a dispensing fee.

(12) Rural Health Clinic Services - Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.

(13) Family Planning - Negotiated rate for local health departments. For other providers - see specific services, for instance, hospitals, physicians.

(14) Independent Laboratory and X-Ray Services - Uniform fee schedules as developed by the Department of Health and Human Services.

(15) Optical Supplies - One hundred percent (100%) of reasonable wholesale cost of materials.

(16) Ambulatory Surgical Centers - Payment as prescribed in the reimbursement plan established by the Department of Health and Human Services.

(17) Medicare Crossover Claims - An amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.

(18) Physical Therapy and Speech Therapy - Services limited to EPSDT eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services.

(19) Personal Care Services - Payment in accordance with the State Plan approved by the Department of Health and Human Services.

(20) Case Management Services - Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.

(21) Hospice - Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.

(22) Other Mental Health Services - Unless otherwise covered by this section, coverage is limited to agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations.

(23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children - Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services.

(24) Health Insurance Premiums - Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.

(25) Medical Care/Other Remedial Care - Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this paragraph are limited to those prescribed in the State Plan as established by the Department of Health and Human Services. Except for related services in schools, providers of these services shall be certified as meeting program standards of the Department of Health and Human Services, Division of Women's and Children's Health.

(26) Pregnancy Related Services - Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

Services and payment bases may be changed with the approval of the Director of the Budget.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, and emergency rooms are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Health and

Human Services where the life of the patient would be threatened without such additional care. Any person who is determined by the Department to be exempt from the 24-visit limitation may also be exempt from the six-prescription limitation.

Section 11.12.(b) Allocation of Nonfederal Cost of Medicaid. The State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section.

Section 11.12.(c) Copayment for Medicaid Services. The Department of Health and Human Services may establish copayment up to the maximum permitted by federal law and regulation.

Section 11.12.(d) Medicaid and Work First Family Assistance, Income Eligibility Standards. The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

	Categorically Needy		Medically Needy	
	WFFA*			
Family Size	Standard of Need		Families and Children Income Level	AA, AB, AD*
1	$ 4,344		$ 2,172	$ 2,900
2	5,664		2,832	3,800
3	6,528		3,264	4,400
4	7,128		3,564	4,800
5	7,776		3,888	5,200
6	8,376		4,188	5,600
7	8,952		4,476	6,000
8	9,256		4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

Section 11.12.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.

Section 11.12.(f) ICF and ICF/MR Work Incentive Allowances. The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as

part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	Monthly Incentive Allowance
$1.00 to $100.99	Up to $50.00
$101.00 - $200.99	$80.00
$201.00 to $300.99	$130.00
$301.00 and greater	$212.00.

Section 11.12.(g) Dental Coverage Limits. Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

Section 11.12.(h) Dispensing of Generic Drugs. Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, under the Medical Assistance Program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in the prescriber's own handwriting on the prescription order, 'dispense as written' or words of similar meaning. Generic drugs, when available in the pharmacy, shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs, subject to the prescriber's 'dispense as written' order as noted above.

As used in this subsection 'brand name' means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and 'established name' has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

Section 11.12.(i) Exceptions to Service Limitations, Eligibility Requirements, and Payments. Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

Section 11.12.(j) Volume Purchase Plans and Single Source Procurement. The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical

equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other similar processes in order to improve cost containment.

Section 11.12.(k) Cost Containment Programs. The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs including preadmissions to hospitals and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

Section 11.12.(l) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

Section 11.12.(m) The Department of Health and Human Services shall provide Medicaid to 19-, 20-, and 21-year olds in accordance with federal rules and regulations.

Section 11.12.(n) The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

(1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(2) Infants under the age of 1 with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(3) Children aged 1 through 5 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(4) Children aged 6 through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(5) The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

Section 11.12.(o) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

Section 11.12.(p) The Department of Health and Human Services shall submit a monthly status report on expenditures for acute

care and long-term care services to the Fiscal Research Division and to the Office of State Budget and Management. This report shall include an analysis of budgeted versus actual expenditures for eligibles by category and for long-term care beds. In addition, the Department shall revise the program's projected spending for the current fiscal year and the estimated spending for the subsequent fiscal year on a quarterly basis. Reports for the preceding month shall be forwarded to the Fiscal Research Division and to the Office of State Budget and Management no later than the third Thursday of the month.

Section 11.12.(q) The Division of Medical Assistance, Department of Health and Human Services, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

Section 11.12.(r) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing.

Section 11.12.(s) The Division of Medical Assistance, Department of Health and Human Services, may administer Medicaid estate recovery mandated by the Omnibus Budget Reconciliation Act of 1993, (OBRA 1993), 42 U.S.C. § 1396p(b), and G.S. 108-70.5 using temporary rules pending approval of final rules promulgated pursuant to Chapter 150B of the General Statutes.

Section 11.12.(t) The Department of Health and Human Services may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that these rules are necessary to maximize receipt of federal funds, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary rules with the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

Section 11.12.(u) The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources or the Joint Legislative Health Care Oversight Committee on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Health Care Financing Administration. The reports shall be provided at the same time they are submitted to HCFA for approval.

Section 11.12.(v) If the Department of Health and Human Services obtains a Medicaid waiver to implement two long-term care

pilot projects, then the Department shall report the particulars of the waiver, the pilot projects, and the status of implementation to members of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Study Commission on Aging within 30 days of receiving the waiver. The Department shall not expand the pilot project beyond the two initial pilots without first reporting the proposed expansion to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources.

Section 11.12.(w) The Department of Health and Human Services shall study the effect of subsection (o) of this section on both the Medicaid program and the Health Insurance Program for Children. The Department shall make an interim report on the results of this study to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources by October 1, 1999, and shall make a final report by January 1, 2000.

Requested by: Representatives Earle, Nye, Gillespie, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

DEPARTMENTAL STUDY/MEDICAID COVERAGE FOR MEDICALLY NECESSARY PROSTHETICS OR ORTHOTICS

Section 11.13. The Department of Health and Human Services shall study providing Medicaid coverage for medically necessary prosthetics or orthotics for Medicaid eligible persons age 21 and older. The Department shall report its findings and recommendations, including the cost of providing these benefits, to the members of the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources not later than May 1, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

DENTIST PARTICIPATION IN MEDICAID

Section 11.14. The Joint Legislative Health Care Oversight Committee shall review the report of the North Carolina Institute of Medicine's Task Force on Dental Care Access and other reports and information pertinent to access to dental care and shall consider the findings and recommendations of these reports. The Committee shall report its recommendations resulting from this review to the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources not later than May 1, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

UTILIZATION IMPACT ON INFLATIONARY INCREASES FOR HOSPITALS AND NURSING HOMES

Section 11.14A. To the extent, funds are available from utilization decreases in the Medicaid program, the Department of Health and Human Services, Division of Medical Assistance, may use up to five million forty-four thousand nine hundred twenty dollars ($5,044,920) for the 1999-2000 fiscal year to fund inflationary increases for hospitals and nursing homes.

SUBPART 3. AGING

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

SENIOR CENTER OUTREACH

Section 11.15.(a) Funds appropriated to the Department of Health and Human Services, Division of Aging, for the 1999-2001 fiscal biennium, shall be used by the Division of Aging to enhance senior center programs as follows:

(1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or

(2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

Section 11.15.(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the board of commissioners of the county in which the new center will be located shall:

(1) Formally endorse the need for a center;

(2) Formally agree on the sponsoring agency for the center; and

(3) Make a formal commitment to use local funds to support the ongoing operation of the center.

Section 11.15.(c) State funding shall not exceed ninety percent (90%) of reimbursable costs.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

FUNDS FOR ALZHEIMER'S ASSOCIATION CHAPTERS IN NC

Section 11.16. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Aging, the sum of one hundred fifty thousand dollars ($150,000) for the 1999-2000 fiscal year and the sum of one hundred fifty thousand dollars ($150,000) for the 2000-2001 fiscal year shall be allocated among the three chapters of the Alzheimer's Association, as follows:

(1) $50,000 in each fiscal year for the Western Alzheimer's Chapter;

(2) $50,000 in each fiscal year for the Southern Piedmont Alzheimer's Chapter; and

(3) $50,000 in each fiscal year for the Eastern Alzheimer's Chapter.

Before funds may be allocated to any chapter under this section, the chapter shall submit to the Division of Aging, for its approval, a plan for the use of these funds.

SUBPART 4. FACILITY SERVICES

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

FIRE PROTECTION FUND

Section 11.17. G.S. 122A-5.13 is amended by adding a new subsection to read:

"(c) Proceeds from the Fire Protection Fund, not to exceed ten thousand dollars ($10,000) annually, may be used to provide staff support to the North Carolina Housing Finance Agency for loan processing under this section and to the Department of Health and Human Services for review and approval of fire protection plans and inspection of fire protection systems."

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

TRANSFER BINGO PROGRAM TO CRIME CONTROL AND PUBLIC SAFETY

Section 11.18. The Bingo Program in the Department of Health and Human Services, Division of Facility Services, and all functions, powers, duties, and obligations vested in the Department of Health and Human Services for the Bingo Program, are transferred to and vested in the Department of Crime Control and Public Safety by a Type I transfer, as defined in G.S. 143A-6.

Requested by: Representatives Earle, Nye, Cansler, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

PLAN FOR ACCREDITATION OF ADULT CARE HOMES AND ASSISTED LIVING FACILITIES

Section 11.20. The Department of Health and Human Services shall study and develop a plan and criteria for accreditation of adult care homes and assisted living facilities. The plan shall provide for enhanced payments to adult care homes and assisted living facilities which meet accreditation criteria.

The Department shall report the findings and recommendations of its study, including the plan developed, to the Joint Legislative Health Care Oversight Committee and to the North Carolina Study Commission on Aging no later than April 1, 2000.

SUBPART 5. SOCIAL SERVICES

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

SPECIAL ASSISTANCE DEMONSTRATION PROJECT

Section 11.21. The Department of Health and Human Services may use funds from the existing State/County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to 400 individuals. These payments may be made for up to a two-year period beginning July 1, 1999, and ending June 30, 2001. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State. The Department shall make an interim report to the cochairs of the House of Representatives Appropriations Committee, the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services and the cochairs of the Senate Appropriations Committee, the Chair of the Senate Appropriations Committee on Human Resources by June 30, 2000, and a final report by October 1, 2001. This report shall include the following information:

(1) A description of cost savings that could occur by allowing individuals eligible for State/County Special Assistance the option of remaining in the home.
(2) Which activities of daily living or other need criteria are reliable indicators for identifying individuals with the greatest need for income supplements for in-home living arrangements.
(3) How much case management is needed and which types of individuals are most in need of case management.
(4) The geographic location of individuals receiving payments under this section.
(5) A description of the services purchased with these payments.
(6) A description of the income levels of individuals who receive payments under this section and the impact on the Medicaid program.
(7) Findings and recommendations as to the feasibility of continuing or expanding the demonstration program.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

ADULT CARE HOMES REIMBURSEMENT RATE/ADULT CARE HOMES ALLOCATION OF NONFEDERAL COST OF MEDICAID PAYMENTS/STAFFING GRANT

Section 11.22.(a) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars ($1,231) per month per resident.

Section 11.22.(b) Effective August 1, 1995, the State shall pay fifty percent (50%) and the county shall pay fifty percent (50%) of

the nonfederal costs of Medicaid services paid to adult care home facilities. As Medicaid personal care requirements increase due to increases in inflation and the number of eligibles, the county matching share shall be capped until it equals fifteen percent (15%) of the nonfederal Medicaid personal care requirements.

Section 11.22.(c) Effective October 1, 1998, the maximum monthly rate for residents in adult care home facilities shall be nine hundred fifty-six dollars ($956.00) per month per resident.

Section 11.22.(d) Effective October 1, 1999, the maximum monthly rate for residents in adult care home facilities shall be nine hundred eighty-two dollars ($982.00) per month per resident.

Section 11.22.(e) Effective October 1, 2000, the maximum monthly rate for residents in adult care home facilities shall be one thousand sixteen dollars ($1,016) per month per resident.

Section 11.22.(f) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million dollars ($2,000,000) for the 1999-2000 fiscal year and the sum of five hundred thousand dollars ($500,000) for July through September of the 2000-2001 fiscal year, shall be used by the Department for staffing grants for adult care homes as authorized under this subsection. These funds shall be matched equally by county funds. Effective January 1, 1999, grants shall be awarded to those adult care homes that are required to add staff or that have added staff in order to comply with the increase in third shift staffing requirements under G.S. 131D-4.3(a)(5), from eight hours of aide duty per 50 or fewer residents to eight hours of aide duty per 30 or fewer residents. The Department shall determine eligibility for these grants based upon factors which shall include:

(1) Licensed capacity as of August 1, 1998,
(2) Occupancy rate, and
(3) Percentage of residents receiving State and county special assistance of the total residents in the adult care home.

Adult care homes that receive staffing grants under this subsection shall provide documentation to the Department showing that the home has complied with staffing ratios established under G.S. 131D-4.3(a)(5). An adult care home that receives grant funds under this subsection and is found by the Department not to have complied with staffing requirements of G.S. 131D-4.3(a)(5) shall refund to the Department a prorated share of the staffing grant funds received by the adult care home. The Department shall incorporate the staffing grants authorized under this subsection into the existing Special Assistance payment methodology or the Medicaid Personal Care Services reimbursement methodology effective October 1, 2000.

Section 11.22.(g) Effective January 1, 2000, the Department of Health and Human Services may transfer funds from the State/County Special Assistance program to support expansion of Medicaid Personal Care Services for residents of adult care homes.

Section 11.22.(h) Effective January 1, 2000, the State shall pay fifty percent (50%) and the county shall pay fifty percent (50%) of

the nonfederal share of new levels of Medicaid Personal Care Services paid to adult care homes. Effective July 1, 2001, the State shall pay fifty-seven percent (57%) and each county shall pay forty-three percent (43%) of the nonfederal share of new levels of Medicaid Personal Care Services paid to adult care homes. Each year thereafter, the State share of the nonfederal cost will increase by seven percent (7%) until the county share equals fifteen percent (15%) of the nonfederal share of new levels of Medicaid Personal Care Services.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Perdue, Plyler, Odom

ADULT CARE HOME RESIDENT ASSESSMENT SERVICES

Section 11.22A. Funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, for adult care home positions in the Department and in county departments of social services shall be used for personnel trained in the medical and social needs of older adults and disabled persons in adult care homes to evaluate individuals requesting State/County Special Assistance to pay for care in adult care homes. One of the functions of these personnel shall be to develop and collect data on the appropriate level of care and placement in the long-term care system, including identifying individuals who pose a risk to other residents and who may need further mental health assessment and treatment. These personnel shall also provide technical assistance to adult care homes on how to conduct functional assessments and develop care plans, and shall assist in monitoring the Special Assistance Demonstration Project.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

FOSTER CARE ASSISTANCE PAYMENTS

Section 11.23. The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

(1) $315.00 per child per month for children aged birth through 5;

(2) $365.00 per child per month for children aged 6 through 12; and

(3) $415.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars ($15.00) is a special needs allowance for the child.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

ADOPTION ASSISTANCE PAYMENTS

Section 11.24. The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

(1) $315.00 per child per month for children aged birth through five;
(2) $365.00 per child per month for children aged six through 12; and
(3) $415.00 per child per month for children aged 13 through 18.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

AUTHORIZED ADDITIONAL USE OF HIV FOSTER CARE AND ADOPTIVE FAMILY FUNDS

Section 11.25.(a) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

Section 11.25.(b) The maximum rates for State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

(1) $800.00 per month per child with indeterminate HIV status;
(2) $1,000 per month per child confirmed HIV-infected, asymptomatic;
(3) $1,200 per month per child confirmed HIV-infected, symptomatic; and
(4) $1,600 per month per child terminally ill with complex care needs.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD PROTECTIVE SERVICES

Section 11.26.(a) The funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, for the 1999-2001 fiscal biennium for Child Protective Services shall be allocated to county departments of social services based upon a formula which takes into consideration the number of Child Protective Services cases and the number of Child Protective Services workers and supervisors necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services.

Section 11.26.(b) Funds allocated under subsection (a) of this section shall be used by county departments of social services for carrying out investigative assessments of child abuse or neglect or for providing protective or preventive services in cases in which the department confirms abuse, neglect, or dependency.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD WELFARE SYSTEM PILOTS

Section 11.27.(a) The Department of Health and Human Services, Division of Social Services, shall develop a plan, working with local departments of social services, to implement a dual response system of child protection in no fewer than two and no more than five demonstration areas in this State. The plan should provide for the pilots to implement dual response systems in which:

(1) Local child protective services and law enforcement work together as coinvestigators in serious abuse cases; and

(2) Local departments of social services respond to reports of child abuse or neglect with a family assessment and services approach.

Section 11.27.(b) The Department of Health and Human Services shall plan for the development of data collection processes that would enable the General Assembly to assess the impact of these pilots on:

(1) Child safety;

(2) Timeliness of response;

(3) Timeliness of services;

(4) Coordination of local human services;

(5) Cost-effectiveness;

(6) Any other related issues.

Section 11.27.(c) The Department of Health and Human Services may proceed to implement the pilot dual response systems if non-State funds are identified for this purpose.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD WELFARE SYSTEM IMPROVEMENTS

Section 11.28.(a) The Division of Social Services, Department of Health and Human Services, shall report semiannually to the members of the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities of the State Child Fatality Review Team and shall provide a final report to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Health and Human Services no later than April 1, 2000, including recommendations for changes in the statewide child protection system.

Section 11.28.(b) Subsection (d) of Section 11.57 of S.L. 1997-443, as amended by Section 12.22 of S.L. 1998-212, reads as rewritten:

"(d) Notwithstanding G.S. 131D-10.6A, the Division of Social Services shall establish training requirements for child welfare services staff initially hired on and after January 1, 1998. The minimum training requirements established by the Division shall be as follows:

(1) Child welfare services workers must complete a minimum of 72 hours of preservice training before assuming direct client contact responsibilities;

(2) Child protective services workers must complete a minimum of 18 hours of additional training that the Division determines is necessary to adequately meet training needs;
(3) Foster care and adoption social workers must complete a minimum of 39 hours of additional training that the Division determines is necessary to adequately meet training needs;
(4) Child Welfare Services supervisors must complete a minimum of 72 hours of preservice training before assuming supervisory responsibilities, and a minimum of 54 hours of additional training that the Division determines is necessary to adequately meet training needs; and
(5) Child welfare services staff must complete 24 hours of continuing education annually thereafter.

The Division of Social Services may grant an exception in whole or in part to the minimum 72 hours of preservice training for child welfare workers who satisfactorily complete or are enrolled in a masters or bachelors degree program after July 1, 1999, from an accredited North Carolina social work program pursuant to the Council on Social Work Education. The program's curricula must cover the specific preservice training requirements as established by the Division.

The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human services agencies to meet the training requirements of this subsection.

This subsection shall continue in effect until explicitly repealed."

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

LIMITATIONS ON STATE ABORTION FUND

Section 11.29. The limitations on funding of the performance of abortion established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 1999-2000 and 2000-2001 fiscal years.

Requested by: Representatives Redwine, Earle, Nye, Easterling, Hardaway, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD CARING INSTITUTION RULES EFFECTIVE

Section 11.30. Notwithstanding G.S. 150B-21.3(b), Administrative Rules 10 NCAC 41S and 41T, adopted by the Social Services Commission on January 13, 1999, and approved by the Rules Review Commission on February 18, 1999, and Administrative Rules 10 NCAC 41E, 41G, and 41R, repealed by the Social Services Commission on January 13, 1999, and approved by the Rules Review Commission on February 18, 1999, become effective July 1, 1999.

Requested by: Representatives Howard, Berry, Gardner, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

WORK FIRST PROGRAM INTEGRITY ACTIVITIES FUNDS

Section 11.31. Funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, in the amount of two million five hundred thousand dollars ($2,500,000) for program integrity activities in each county shall be given to the counties in a lump sum, and unexpended funds shall revert to the General Fund.

SUBPART 6. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

PHYSICIAN SERVICES

Section 11.32. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with constituent institutions of The University of North Carolina.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

LIABILITY INSURANCE

Section 11.33. The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars ($1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States, or that arises out of any sexual, fraudulent, criminal, or malicious act, or out of any act amounting to willful or wanton negligence.

The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Health and Human Services, the Department of Environment and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services and licensed physicians who are faculty members of The University of North Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT

Section 11.34. To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services may require a private agency that provides services under contract with two or more area programs, except for hospital services that have an established Medicaid rate, to complete an agency-wide uniform cost finding in accordance with G.S. 122C-143.2(a) and G.S. 122C-147.2. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

FUNDS TO REDUCE WAITING LIST FOR SERVICES FOR DEVELOPMENTALLY DISABLED PERSONS

Section 11.35. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of six million dollars ($6,000,000) for the 1999-2000 fiscal year and the sum of six million dollars ($6,000,000) for the 2000-2001 fiscal year shall be used to provide family support services to developmentally disabled individuals who are not eligible for the Medicaid Community Alternative Program for Mentally Retarded/Developmentally Disabled Persons and who are on the Department's waiting list for services. Services to persons on the waiting list shall be provided without regard to when the individual's name was added to the waiting list.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

STUDY OF STATE PSYCHIATRIC HOSPITALS/AREA MENTAL HEALTH PROGRAMS

Section 11.36. In accordance with Section 12.35A of S.L. 1998-212, the State Auditor shall make the following reports to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Health and Human Services:

(1) Final report on the study of State psychiatric hospitals not later than December 1, 1999, and

(2) Second interim report on the study of the area mental health programs not later than November 1, 1999, and a final report not later than April 1, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

BUTNER COMMUNITY LAND RESERVATION

Section 11.37. The Department of Health and Human Services shall reserve and dedicate the following described land for the construction of a Community Building and related facilities to serve the Butner Reservation:

"Approximately 2 acres, on the east side it borders Central Avenue with a line running along the Wallace Bradshur property on the north back to the tree line next to the ADATC. From there it follows the tree line south and west to and including the softball field. From the softball field it turns east to the State Employees Credit Union and follows the Credit Union property on the south side back to Central Avenue."

This land shall be reserved and dedicated for the project which shall be funded with contributions from Granville County, contributions from the residents of the Butner Reservation, the use of cablevision franchise rebate funds received by the Department of Health and Human Services on behalf of the Butner Reservation, and other public and private sources.

The Butner Planning Council shall advise the Secretary of Health and Human Services, through resolutions adopted by the Council, regarding the use of this reserved and dedicated land, the construction of the Community Building, and the expenditure of the cablevision franchise rebate funds.

The Department of Health and Human Services shall reserve and dedicate the above described property for the above described purposes until the time, if any, that a permanent local government is established on the Butner Reservation at which time the land shall be transferred to the local government.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

MENTAL HEALTH FUNDS FOR CRISIS SERVICES

Section 11.38. Purposes for which funds are appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the development of local crisis services shall include, but not be limited to, meeting the short-term crisis needs of mentally retarded children determined by the Division to need crisis services. The Division shall pursue the use of available State resources and services for these children, including mental retardation centers, for short-term crisis treatment for appropriate minors, as determined by the Division.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

MENTAL HEALTH RESERVE FOR MEDICAID MATCH

Section 11.39.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the 1999-2000 fiscal year, the Department shall transfer to the Mental Health Restricted Reserve not more than the amount of actual expenditures for Medicaid payments for the 1998-99 fiscal year for services provided by area mental health authorities. The Department shall transfer from the Division of Medical Assistance the estimated amount needed to match Medicaid payments for the former Carolina Alternatives Programs. The Department shall not transfer from area program allocations funds to cover Medicaid payment expenditures that exceed the amount of funds in the Reserve for the 1999-2000 fiscal year.

Section 11.39.(b) Any nonfederal increases in the cost of Medicaid services provided by area mental health authorities will be borne in equal parts by the State and county funding entity until the county share reaches fifteen percent (15%) of the nonfederal share.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

USE OF WILLIE M./THOMAS S. FUNDS

Section 11.40.(a) Funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 1999-2000 fiscal year and the 2000-2001 fiscal year to provide services for Willie M. class members shall be used for services required by State and federal law to children who were identified as members of the class at the time of dissolution of the class, and may be used for services required by State and federal law to violent and assaultive children and other children at risk for institutionalization.

The Department shall transition the formerly court-mandated Willie M. program into the larger mental health disability service areas in order to maximize the efficient and effective use of the funds while also continuing services to former class members.

Section 11.40.(b) Funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 1999-2000 fiscal year and the 2000-2001 fiscal year for services to Thomas S. class members shall be used for services required by State and federal law to adults who were identified as members of the class at the time of dissolution of the class, and may be used for services required by State and federal law to other multiply diagnosed adults.

Section 11.40.(c) If funds appropriated in this act to the Department of Health and Human Services for services to former Willie M. class members are insufficient to provide services required by State and federal law to other children at risk for institutionalization, or if funds appropriated in this act to the Department for services to former Thomas S. class members are insufficient to provide services required by State and federal law to other multiply diagnosed adults, then the Department may use funds available not exceeding four million nine hundred thousand dollars ($4,900,000) to the extent necessary for services to other children at risk for institutionalization or to other multiply diagnosed adults.

Section 11.40.(d) The Department shall examine State and local administration of Willie M. and Thomas S. services in order to identify organizational or operational changes that may be made and other efficiencies that may be realized as a result of dissolution of the Willie M. and Thomas S. classes. Not later than May 1, 2000, the Department shall report to the members of the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources on the status of its compliance with this section and its proposed plans for maximizing the efficient and effective use of funds appropriated for these services in the future.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

AUTHORITY TO ACCESS CASH RESERVES OF DMH/DD/SAS AREA PROGRAM FOUNDATIONS FOR REIMBURSEMENT FOR DISALLOWED EXPENDITURES

Section 11.41. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"*§ 122C-123A. Area authority reimbursement to State for disallowed expenditures.*

Any funds or part thereof of an area authority that are transferred by the area authority to any entity including a firm, partnership, corporation, company, association, joint stock association, agency, or nonprofit private foundation shall be subject to reimbursement by the area authority to the State when expenditures of the area authority are disallowed pursuant to a State or federal audit."

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

EARLY INTERVENTION SERVICES

Section 11.42.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two hundred three thousand dollars ($203,000) for the 1999-2000 fiscal year and the sum of six hundred ten thousand dollars ($610,000) for the 2000-2001 fiscal year shall be used to implement two recommendations from the Interagency Coordinating Council's "Study on Early Intervention Services for Children Ages Birth to Five Years," dated March 1999. The Department of Health and Human Services, the Department of Public Instruction, and The University of North Carolina's Division TEACCH (Treatment and Education of Autistic and other Communications Handicapped Children and Adults), shall participate jointly, in collaboration with the Interagency Coordinating Council, in the planning, design, and implementation of the following provisions:

(1) Of the funds allocated by this subsection, the sum of seventy-eight thousand dollars ($78,000) in the 1999-2000 fiscal year and the sum of one hundred ten thousand dollars ($110,000) in the 2000-2001 fiscal year shall be used to plan, design, and implement an integrated, interagency database for children with or at risk for disabilities who receive early intervention services. The purpose of the database is to:
   a. Assist in identifying gaps in services;
   b. Project and plan for future service needs;
   c. Improve the quality and accessibility of services; and
   d. Document outcomes of early intervention services.

   This database shall be compatible with the State Board of Education's new Student Information Management System. These agencies shall initiate use of the database in a pilot program in at least one community by July 1, 2000, and shall evaluate this pilot for statewide implementation by July 1, 2001. The agencies shall submit a progress report by April 1, 2000, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

(2) Of the funds allocated by this subsection, the sum of one hundred twenty-five thousand dollars ($125,000) in fiscal year 1999-2000 and the sum of five hundred thousand dollars ($500,000) in fiscal year 2000-2001 shall be used to plan for and implement regional transdisciplinary teams to provide training, technical assistance, and other support services to existing early intervention agencies and providers. The teams will maintain expertise on low incidence populations, such as children with visual and hearing impairments, autism, and child mental health needs. These

agencies shall implement a pilot program establishing a regional transdisciplinary team no later than March 2000. These agencies shall submit an interim report by March 15, 2000, and a final plan for statewide implementation of the transdisciplinary teams by March 15, 2001, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Section 11.42.(b) The North Carolina Schools for the Deaf and other agencies providing early intervention services to children from birth through five years of age shall implement procedures to ensure that:

(1) Parents of children newly identified with hearing loss and determined to be eligible for services are informed of the services available to them through Beginnings for Parents of Hearing Impaired Children, Inc.; and

(2) Beginnings for Parents of Hearing Impaired Children, Inc., with the consent of parents, is notified of these children in a timely and appropriate manner.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

BROUGHTON HOSPITAL FUNDS/NONREVERT

Section 11.42A.(a) Of the funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the 1998-99 fiscal year, the sum of four hundred thousand dollars ($400,000) shall not revert on June 30, 1999, but shall remain available to Broughton Hospital to be used for the following purposes:

(1) Patient room privacy partitions;

(2) Hospital beds;

(3) Security fencing and video monitoring equipment;

(4) Relocation and update of the pharmacy department; and

(5) Replacement of outdated and deteriorated dental equipment.

Section 11.42A.(b) This section becomes effective June 30, 1999.

SUBPART 7. CHILD DEVELOPMENT

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD CARE ALLOCATION FORMULA

Section 11.43.(a) To simplify current child care allocation methodology and more equitably distribute State child care funds, the Department of Health and Human Services shall apply the following allocation formula to all noncategorical federal and State child care funds used to pay the costs of necessary child care for minor children of needy families:

(1) One-third of budgeted funds shall be distributed according to the county's population in relation to the total population of the State;
(2) One-third of the budgeted funds shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 years of age in the State in families whose income is below the poverty level; and
(3) One-third of budgeted funds shall be distributed according to the number of working mothers with children under 6 years of age in a county in relation to the total number of working mothers with children under 6 years of age in the State.

Section 11.43.(b) A county's initial allocation shall not be less than that county's total expenditures for both FSA and non-FSA child care in fiscal year 1995-96.

Section 11.43.(c) The Department of Health and Human Services may re-allocate child care subsidy funds in order to meet the child care needs of low income families.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD CARE FUNDS MATCHING REQUIREMENT

Section 11.44. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving any State child care funds appropriated by this act unless federal law requires such a match. This shall not prohibit any locality from spending local funds for child care services.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD CARE REVOLVING LOAN FUND

Section 11.45. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or to pay the Department's cost of administering the program.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD CARE MARKET RATE FUNDS

Section 11.46. The sum of three million three hundred thousand dollars ($3,300,000) appropriated to the Division of Social Services in this act shall be transferred to the Division of Child Development to fund the nonfederal share of the child care market rate increase.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD CARE SUBSIDIES

Section 11.47.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

Section 11.47.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	9%
4-5	8%
6 or more	7%

Section 11.47.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Effective October 1, 1999, religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the county market rate or the rate they charge privately paying parents, whichever is lower.

(2) Effective October 1, 1999, religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that are receiving a higher rate than the market rates that will be implemented with this provision shall continue to receive that higher rate for a period of three years from the effective date of this section.

(3) Effective October 1, 1999, licensed child care centers with two or more stars may receive a higher payment rate per child per month as follows: two stars - $14.00, three stars - $17.00, four stars - $20.00, and five stars - $23.00. Effective January 1, 2000, licensed child care homes with two or more stars may receive a higher payment rate per child per month as follows: two stars - $14.00, three stars - $17.00, four stars - $20.00, and five stars - $23.00.

(4) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(5) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

Section 11.47.(d) Provision of payment rates for child care providers in counties who do not have at least 75 children in each age group for center-based and home-based care are as follows:

(1) Payment rates shall be set at the statewide market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide market rate to a county with fewer than 75 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

Section 11.47.(e) A market rate shall be calculated for child care centers and homes that meet minimum licensing standards for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized privately paying parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide market rate for each age category. The Division of Child Development may also calculate regional market rates for each age group and age category.

Section 11.47.(f) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

Section 11.47.(g) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES

Section 11.48.(a) G.S. 143B-168.12(a)(1), as amended by Section 24 of S.L. 1999-84, reads as rewritten:

"(1) The North Carolina Partnership shall have a Board of Directors consisting of the following 25 members:

a. The Secretary of Health and Human Services, ex officio, or the Secretary's designee;

b. Repealed by Session Laws 1997, c. 443, s. 11A.105.

c. The Superintendent of Public Instruction, ex officio, or the Superintendent's designee;

d. The President of the Community Colleges System, ex officio, or the President's designee;

e. Three members of the public, including one child care provider, one other who is a parent, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate;

f. Three members of the public, including one who is a parent, one other who is a representative of the faith community, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives;

g. Twelve members, appointed by the Governor. Three of these 12 members shall be members of the party other than the Governor's party, appointed by the Governor. Seven of these 12 members shall be appointed as follows: one who is a child care provider, one other who is a pediatrician, one other who is a health care provider, one other who is a parent, one other who is a member of the business community, one other who is a member representing a philanthropic agency, and one other who is an early childhood educator;

h. Repealed by Session Laws 1998-212, s. 12.37B(a).

h1. The Chair of the North Carolina Partnership Board shall be appointed by the Governor;

i. Repealed by Session Laws 1998-212, s. 12.37B(a).

j. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the Senate;

k. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the House of Representatives;

l. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the Senate; and

m. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the House of Representatives.

All members appointed to succeed the initial members and members appointed thereafter shall be appointed for three-year terms. Members may succeed themselves.

All appointed board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the North Carolina Partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the North Carolina Partnership regarding the disbursement of funds.

All ex officio members are voting members. Each ex officio member may be represented by a designee. These designees shall be voting members. No members of the General Assembly shall serve as members.

The North Carolina Partnership may establish a nominating committee and, in making their recommendations of members to be appointed by the General Assembly or by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the Governor shall consult with and consider the recommendations of this nominating committee.

The North Carolina Partnership may establish a policy on members' attendance, which policy shall include provisions for reporting absences of at least three meetings immediately to the appropriate appointing authority.

Members who miss more than three consecutive meetings without excuse or members who vacate their membership shall be replaced by the appropriate appointing authority, and the replacing member shall serve either until the General Assembly and the Governor can appoint a successor or until the replaced member's term expires, whichever is earlier.

The North Carolina Partnership shall establish a policy on membership of the local board, which policy shall include the requirement that all local board ~~members~~ members, other than any member appointed because of a position held by that individual, be residents of the county or the partnership region they are representing. Within these requirements for local board membership, the North Carolina Partnership shall allow local partnerships that are regional to have flexibility in the composition of their

boards so that all counties in the region have adequate representation.

All appointed local board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the partnership regarding the disbursement of funds."

Section 11.48.(b) The General Assembly finds that it is essential to continue developing comprehensive programs that provide high quality early childhood education and development services locally for children and their families. The General Assembly intends to expand the Early Childhood Education and Development Initiatives Program (the "Program") in a manner which ensures quality assurance and performance-based accountability for the Program.

Section 11.48.(c) Notwithstanding any provision of Part 10B of Article 3 of Chapter 143B of the General Statutes or any other provision of law or policy, the Department of Health and Human Services and the North Carolina Partnership for Children, Inc., jointly shall continue to implement the recommendations contained in the Smart Start Performance Audit prepared pursuant to Section 27A(1)b. of Chapter 324 of the 1995 Session Laws, as modified by Section 24.29 of Chapter 18 of the Session Laws, Second Extra Session 1996. The North Carolina Partnership for Children, Inc., shall continue to report quarterly to the Joint Legislative Commission on Governmental Operations on its progress toward full implementation of the modified audit recommendations.

Section 11.48.(d) The Joint Legislative Commission on Governmental Operations shall, consistent with current law, continue to be the legislative oversight body for the Program. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may appoint a subcommittee of the Joint Legislative Commission on Governmental Operations to carry out this function. This subcommittee may conduct all initial reviews of plans, reports, and budgets relating to the Program and shall make recommendations to the Joint Legislative Commission on Governmental Operations.

Section 11.48.(e) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. What counts as administrative costs shall be as defined in the Smart Start Performance Audit.

Section 11.48.(f) Any local partnership, before receiving State funds, shall be required annually to submit a plan and budget for State funds for appropriate programs to the North Carolina Partnership for Children, Inc., and the Joint Legislative Commission on Governmental Operations. State funds to implement the programs shall not be allocated to a local partnership until the program plan is approved by the North Carolina Partnership for Children, Inc.

Section 11.48.(g) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.;

(2) For amounts greater than five thousand dollars ($5,000) but less than fifteen thousand dollars ($15,000), three written quotes;

(3) For amounts of fifteen thousand dollars ($15,000) or more but less than forty thousand dollars ($40,000), a request for proposal process; and

(4) For amounts of forty thousand dollars ($40,000) or more, request for proposal process and advertising in a major newspaper.

Section 11.48.(h) The role of the North Carolina Partnership for Children, Inc., shall continue to be expanded to incorporate all the aspects of the new role determined for the Partnership in the Smart Start Performance Audit recommendations and to provide technical assistance to local partnerships, assess outcome goals for children and families, ensure that statewide goals and legislative guidelines are being met, help establish policies and outcome measures, obtain non-State resources for early childhood and family services, and document and verify the cumulative contributions received by the partnerships.

Section 11.48.(i) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the Program in each fiscal year of the biennium as follows: contributions of cash equal to at least ten percent (10%) and in-kind donated resources equal to no more than ten percent (10%) for a total match requirement of twenty percent (20%) for each fiscal year. Any program funding expended for child care subsidies during the previous 12 months is excluded from the match requirement of this subsection. Only in-kind contributions that are quantifiable, as determined in the Smart Start Performance Audit, shall be applied to the in-kind match requirement. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records;

(2) If in-kind, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations;

(3) Not include expenses funded by State funds;

(4) Be supplemental to and not supplant preexisting resources for related program activities;

(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives;

(6) Be otherwise allowable under federal or State law;

(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership; and

(8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

The North Carolina Partnership for Children, Inc., shall establish uniform guidelines and reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection.

Failure to obtain a twenty percent (20%) match by May 1 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for the next fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

Section 11.48.(j) Counties participating in the Program may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110 of the General Statutes, with other applicable requirements of State law or rule, including rules adopted for nonlicensed child care by the Social Services Commission, and with applicable federal regulations.

Section 11.48.(k) The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

Section 11.48.(l) The Frank Porter Graham Child Development Center shall continue its evaluation of the Program. Notwithstanding any policy to the contrary, the Frank Porter Graham Child Development Center may use any method legally available to it to track children who are participating or who have participated in any Early Childhood Education and Development Initiative in order to carry out its ongoing evaluation of the Program.

Section 11.48.(m) There is allocated from the funds appropriated to the Department of Health and Human Services,

Division of Child Development, in this act, the sum of fifty-nine million five hundred thousand dollars ($59,500,000) for the 1999-2000 fiscal year and the sum of seventy-eight million nine hundred twenty-eight thousand eight hundred twenty-six dollars ($78,928,826) for the 2000-2001 fiscal year to be used as follows:

(1) The sum of fifty-eight million dollars ($58,000,000) in the 1999-2000 fiscal year and the sum of seventy-eight million nine hundred twenty-eight thousand eight hundred twenty-six dollars ($78,928,826) in the 2000-2001 fiscal year shall be used to administer and deliver services in all 100 counties. These funds may be used as financial incentives to encourage regionalization at the local level and to complete development of contracting and accounting systems at the local level. Any funds used to encourage regionalization or to complete development of contracting and accounting systems at the local level shall not be included in computations affecting the administrative cost limitations under subsection (e) of this section.

(2) The North Carolina Partnership for Children, Inc., may use the sum of one million five hundred thousand dollars ($1,500,000) in the 1999-2000 fiscal year to assist local partnerships in their efforts to develop local collaboration.

Section 11.48.(n) Of the funds appropriated to the Department of Health and Human Services for the Program for the 1999-2001 biennium, the Frank Porter Graham Child Development Center shall receive the sum of one million fifteen thousand dollars ($1,015,000) in the 1999-2000 fiscal year and the sum of one million fifteen thousand dollars ($1,015,000) in the 2000-2001 fiscal year.

Section 11.48.(o) G.S. 143B-168.15(g) reads as rewritten:

"(g) Not less than thirty percent (30%) of each local partnership's direct services allocation shall be used to expand child care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child care services as described in this section. The local partnerships shall give priority for the use of these funds to augmenting the State's supplemental subsidy payment rate per child per month for licensed child care centers and homes earning a rated license that exceeds the minimum licensing standards."

SUBPART 8. VOCATIONAL REHABILITATION

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

REIMBURSEMENT AND COMPENSATION OF MEMBERS OF THE NORTH CAROLINA VOCATIONAL REHABILITATION COUNCIL, THE STATEWIDE INDEPENDENT LIVING COUNCIL, AND THE COMMISSION FOR THE BLIND

Section 11.49. G.S. 138-5(a) reads as rewritten:

"(a) Except as provided in subsections (c) and (f) of this section, members of State boards, commissions, committees and councils which operate from funds deposited with the State Treasurer shall be compensated for their services at the following rates:

(1) ~~Compensation~~ Except as otherwise provided by this subdivision, compensation at the rate of fifteen dollars ($15.00) per diem for each day of ~~service;~~ service. Members of the North Carolina Vocational Rehabilitation Council, the Statewide Independent Living Council, and the Commission for the Blind who are unemployed or who shall forfeit wages from other employment to attend Council or Commission meetings or to perform related duties, may receive compensation not to exceed fifty dollars ($50.00) per diem for attending these meetings or performing related duties, as authorized by sections 105 and 705 of the Rehabilitation Act of 1973, P.L. 102-569, 42 U.S.C. § 701, et seq., as amended.

(2) Reimbursement of subsistence expenses at the rates allowed to State officers and employees by subdivision (3) of G.S. 138-6(a).

(3) Reimbursement of travel expenses at the rates allowed to State officers and employees by subdivisions (1) and (2) of G.S. 138-6(a).

(4) For convention registration fees, the actual amount expended, as shown by receipt."

SUBPART 9. DEAF AND HARD OF HEARING SERVICES

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

FAMILY SUPPORT/DEAF AND HARD OF HEARING SERVICES CONTRACT

Section 11.50. Of the funds appropriated in this act to the Division of Services for the Deaf and the Hard of Hearing, Department of Health and Human Services, for family support services, the sum of five hundred three thousand two hundred thirty-eight dollars ($503,238) for the 1999-2000 fiscal year and the sum of five hundred three thousand two hundred thirty-eight dollars ($503,238) for the 2000-2001 fiscal year shall be used to contract with a private, nonprofit corporation licensed to do business in North Carolina to perform those services, including family support and advocacy services as well as technical assistance to professionals who work with families of hearing-impaired children aged birth to 21 years.

SUBPART 10. SERVICES FOR THE BLIND

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

SERVICES FOR BLIND/EXTENDED SERVICE PROVIDER POSITIONS

Section 11.51. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Services for the Blind, the sum of two hundred fifty thousand dollars ($250,000) in each fiscal year of the 1999-2001 biennium shall be used to maintain extended service provider positions at local, nonprofit-supported employment programs.

SUBPART 11. PUBLIC HEALTH

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

IMMUNIZATION PROGRAM RESTITUTION POLICY

Section 11.52. In implementing the restitution procedures adopted pursuant to Section 12.52(d) of S.L. 1998-212, the Department of Health and Human Services shall require restitution from immunization program providers when vaccine in the provider's inventory has become spoiled or unstable due to the provider's negligence and unreasonable failure to properly handle or store the vaccine.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

IMMUNIZATION PROGRAM FUNDING

Section 11.53.(a) Of the funds appropriated to the Department of Health and Human Services for the 1999-2001 fiscal biennium for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of up to one million dollars ($1,000,000) each fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

(1) Outreach efforts at the State and local levels to improve service delivery of vaccines. Outreach efforts may include educational seminars, media advertising, support services to parents to enable children to be transported to clinics, longer operating hours for clinics, and mobile vaccine units; and

(2) Continued development of an automated immunization registry.

Section 11.53.(b) Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Health and Human Services.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

INTENSIVE HOME VISITATION PROGRAM FOR CHILDREN

Section 11.54.(a) Notwithstanding G.S. 143-15.3C, there is appropriated from the Work First Reserve Fund to the Department of Health and Human Services the sum of nine hundred forty-five thousand dollars ($945,000) for the 1999-2000 fiscal year. These funds shall be used to match federal funds in the Intensive Home Visitation Program for Children.

Section 11.54.(b) Not later than April 1, 2000, the Department of Health and Human Services shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division on the following:

(1) Preliminary maternal outcome data, including adequacy of prenatal care, breast feeding, return to school or work, use of contraception, occurrence of repeat pregnancy, substance abuse, domestic violence, parenting knowledge, parenting satisfaction, and use of government programs;

(2) Preliminary child outcome data, including birth weight and gestational age, quality of the home environment, home safety, reported and substantiated episodes of child abuse or neglect, episodes of injury and ingestions, and hospitalizations;

(3) Evidence of the efficacy of the Linkages Model when compared to the Healthy Families Model and the traditional Olds Model and, to the extent evidence is available, to the targeted population at large; and

(4) The progress that has been made in implementing intensive home visitation programs in participating counties, including information on the number of families being served and the extent to which county programs rely upon Medicaid to sustain themselves.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

Section 11.55.(a) The Department of Health and Human Services shall develop and implement a cost-containment plan for the purpose of serving additional clients of the AIDS Drug Assistance Program (ADAP). In developing the Plan, the Department shall do the following:

(1) Explore the feasibility of obtaining a Medicaid expansion waiver;

(2) Estimate the potential cost savings to the State of participating in the 340B Drug Pricing Program by studying various ways of adhering to program requirements while also realizing cost savings;

(3) Examine, for possible adoption, ADAP and other similar program cost-saving strategies in other states, including, but not limited to, restrictive formularies, prescription

limitations, insurance continuity, and insurance purchasing programs, and biannual or quarterly reauthorizations; and

(4) Conduct other activities that will assist in the development of a viable plan.

Section 11.55.(b) The Department shall implement cost-containment programs or mechanisms, other than the current pharmaceutical rebates approach, by July 1, 1999, and shall report to the members of the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than May 15, 2000, on the following:

(1) The realized and projected savings;

(2) Findings from subdivisions (1), (2), and (3) of subsection (a) of this section; and

(3) Recommendations for legislative action.

Section 11.55.(c) Savings realized through cost-containment measures shall be used to serve additional ADAP participants in each fiscal year. Funds not expended for authorized program costs shall revert to the General Fund.

Section 11.55.(d) The Department shall also develop a comprehensive information system on AIDS/HIV clients receiving services from the State. This system shall include information on program usage patterns of ADAP participants, including, but not limited to, frequency of prescription purchases, and types of medications prescribed. The Department shall also develop a plan for promoting patient adherence to physician treatment recommendations. In developing the plan, the Department shall identify ways of obtaining information without interfering with physician-patient confidentiality. The Department shall report on this plan to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division not later than May 15, 2000.

Section 11.55.(e) For the 1999-2000 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five percent (125%) of the federal poverty level are eligible for participation in ADAP. Notwithstanding any other provision of law, eligibility for participation in ADAP during the 1999-2000 fiscal year shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level. All individuals who are eligible for participation in ADAP shall be served by the Department of Health and Human Services. If sufficient funds are not available from funds allocated to ADAP, the Department of Health and Human Services shall transfer available funds from other programs within the Department to meet the funding needs of ADAP.

Section 11.55.(f) The Department of Health and Human Services shall study the estimated participation rates and costs if eligibility for participation in ADAP were raised to two hundred percent (200%) or to two hundred fifty percent (250%) of the federal poverty level. The Department of Health and Human Services shall

report the findings of this study to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than May 15, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

HIV/STD PREVENTION SERVICES/EVALUATION AND ACCOUNTABILITY OF GRANTEES

Section 11.56.(a) The Department of Health and Human Services, Division of Public Health, shall continue the practice of contracting with community-based organizations, local health departments, and other entities to provide services to high-risk individuals. Contracts shall require quarterly reports to the Department on the entity's use of funds, number of clients served under the contract, details on program expenditures, and any other information needed by the Department to enable it to evaluate the efficiency and effectiveness of the entity's use of funds and provision of services. Entities under contract with the Department shall provide to the Department, at least annually, a copy of the entity's financial statement and most recent audit report.

Section 11.56.(b) If the entity with which the Department of Health and Human Services contracts in accordance with subsection (a) of this section is a nonprofit organization, then the entity shall also provide the same quarterly report to the appropriate local health department for information purposes only.

Section 11.56.(c) The Department of Health and Human Services shall adopt standards for the annual evaluation and certification of entities with which the Department contracts under this section. The evaluation and certification standards shall provide sanctions, including discontinuing of funding, for an entity's failure to comply with DHHS standards and State law. The Department shall adopt the standards not later than July 1, 1999, and the standards shall apply to contracts entered into on and after January 1, 2000.

Section 11.56.(d) The Department of Health and Human Services shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources no later than July 1, 1999, on the standards adopted, on entities currently under contract with the Department, and on those entities' experience in providing effective and efficient services under contract with the Department.

Section 11.56.(e) Effective January 1, 2000, the Department of Health and Human Services shall not allocate HIV Prevention Funds to any entity unless the entity has met the certification standards adopted by the Department.

Requested by: Representatives Earle, Nye, Justus, Easterling, Hardaway, Redwine, Senators Warren, Martin of Guilford, Plyler, Perdue, Odom

EXTEND HEART DISEASE AND STROKE PREVENTION TASK FORCE

Section 11.57. Subsections (l) and (m) of Section 26.9 of Chapter 507 of the 1995 Session Laws, as amended by Section 15.25 of S.L. 1997-443, read as rewritten:

"(l) The Task Force shall submit to the Governor and to the General Assembly a preliminary report by January 1, 1996; an interim report within the first week of the convening of the 1997 General Assembly; a second interim report within the first week of the convening of the 1997 General Assembly, Regular Session 1998; a third interim report within the first week of the convening of the 1999 General Assembly, a fourth interim report within the first week of the convening of the 2000 General Assembly; a fifth interim report within the first week of the convening of the 2001 General Assembly, and a final report by June 30, ~~1999.~~ 2001. The reports shall address the Plan, actions and resources needed to fully implement the Plan, and progress in achieving implementation of the Plan to reduce the occurrence of and burden from heart disease and stroke in North Carolina. The reports shall include an accounting of funds expended and anticipated funding needs for full implementation of recommended plans and programs.

(m) Upon submission of its final report to the Governor and the ~~1999~~ 2001 General Assembly, the Task Force shall expire."

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Foxx, Plyler, Perdue, Odom

OSTEOPOROSIS PROGRAM FUNDS

Section 11.58.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of one hundred fifty thousand dollars ($150,000) for the 1999-2000 fiscal year shall be allocated for the continuing work of the Osteoporosis Task Force established by Section 15.32 of S.L. 1997-443.

Section 11.58.(b) The Task Force shall submit a progress report to members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources, the Governor, and the Fiscal Research Division not later than April 1, 2000. The progress report shall address:

(1) Progress being made in fulfilling the duties of the Task Force and in developing the Osteoporosis Prevention Plan,
(2) The anticipated time frame for completion of the Prevention Plan, and
(3) Recommended strategies or actions to reduce the occurrence of and burdens suffered from osteoporosis by citizens of this State.

The Task Force shall submit its final report to the 1999 General Assembly, the Governor, and the Fiscal Research Division not later than October 1, 2000.

Section 11.58.(c) Subsection (m) of Section 15.32 of S.L. 1997-443 reads as rewritten:

"(m) Upon submission of its final report to the Governor and the 1999 General Assembly, Regular Session 2000, the Task Force shall expire."

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

PUBLIC HEALTH PREVENTION ACTIVITIES REPORT

Section 11.60.(a) By April 15, 2000, and more frequently as requested, the Department of Health and Human Services, Division of Public Health, shall report on the activities of each of the following:

(1) Kenneth C. Royall, Jr. Children's Vision Screening Improvement Program;
(2) North Carolina Healthy Start Foundation; and
(3) Adolescent Pregnancy Prevention Coalition of North Carolina.

Section 11.60.(b) The report shall include the following information for each of the organizations named in subsection (a) of this section:

(1) How organization initiatives, singularly or in concert with other programs, contribute to the Department's overall goal of reducing teen pregnancy and infant mortality, and addressing vision problems of children in North Carolina. This information shall also include data and research that supports the approach the Department has taken in achieving its goal;
(2) Output data demonstrating the effects of the organization's activities;
(3) State fiscal year 1998-99 program objectives and activities;
(4) State fiscal year 1998-99 itemized expenditures and fund sources;
(5) State fiscal year 1999-2000 planned objectives, activities, and accomplishments; and
(6) State fiscal year 1999-2000 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through April 15, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

COMMUNICABLE DISEASE CONTROL AID TO COUNTIES FLEXIBILITY

Section. 11.61.(a) For the 1999-2000 and 2000-2001 fiscal years, the Department of Health and Human Services may combine and allocate funds appropriated for Aid to Counties in the Acute Communicable Disease Control Fund, the Tuberculosis Control Fund, and the Sexually Transmitted Disease Control Fund into one Acute Communicable Disease Control Aid to Counties Grant. Communicable Disease Aid to Counties funding to local health

departments and other authorized recipients will be based on a general communicable disease formula to be developed by the Department of Health and Human Services.

Section 11.61.(b) The Department of Health and Human Services, in conjunction with local health departments, will maintain a system to monitor and identify Aid to Counties communicable disease expenditures by each communicable disease group.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

TRANSFER FUNDS DESIGNATED FOR THE CHEMICAL ALCOHOL TESTING PROGRAM

Section 11.62.(a) The Administrative Office of the Courts shall transfer all funds collected under G.S. 20-16.5(j) that are designated for the chemical alcohol testing program to the Department of Health and Human Services on a monthly basis.

Section 11.62.(b) Any funds collected under G.S. 20-16.5(j) that are designated for the chemical alcohol testing program of the Department of Health and Human Services and are not needed for that program shall be transferred annually to the Governor's Highway Safety program for grants to local law enforcement agencies for training and enforcement of the laws on driving while impaired. The Governor's Highway Safety Program shall expend funds transferred to it under this section within 13 months of receipt of the funds. Amounts received by the Governor's Highway Safety Program shall not revert until the June 30 following the 13-month period.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

HEALTHY MOTHERS/HEALTHY CHILDREN GRANT PROGRAM

Section 11.63.(a) The Department of Health and Human Services may initiate a Healthy Mothers/Healthy Children Grant Program in up to eight local health departments. The Department may consolidate federal Maternal and Child Health Block Grant funds and State funds appropriated for the Maternal Health, Women's Preventive Health, Child Health, Child Service Coordination and Immunization programs into a Healthy Mothers/Healthy Children Grant Program for each participating local health department. Local health departments participating in the Healthy Mothers/Healthy Children Grant Program may use grant funds to do any of the following:

(1) Improve the health status of women of childbearing age by expanding preventive health services and reducing and/or controlling health risk factors.

(2) Reduce infant mortality and morbidity by preventing high-risk pregnancies, improving the health status of women before pregnancy, improving access to prenatal care, reducing prematurity, and improving survival rates of preterm and other high-risk infants.

(3) Reduce mortality and morbidity among children and youth by reducing the incidence of communicable disease and other preventable conditions, the occurrence and severity of injuries, the incidence of genetic disorders, and the incidence of chronic illnesses and developmental disabilities.

(4) Enhance the health and functional status of children and youth with chronic handicapping conditions by reducing the severity of the conditions through the provision of early identification, diagnosis, treatment, and care coordination services.

Section 11.63.(b) The Department shall not include federal categorical funds, competitive special project funds, and funds for regionalized services in grant funds awarded to local health departments under the Healthy Mothers/Healthy Children Grant Program.

Section 11.63.(c) The Department shall require participating local health departments to identify and report expenditures by program in order to monitor and track the use of Healthy Mothers/Healthy Children Grant Program funds to meet federal and State reporting requirements. In addition, the Department shall require local health departments to report on the administrative, programmatic, and health outcome benefits which are realized by providing localities greater flexibility.

Section 11.63.(d) The Department shall report to members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources on the implementation of the Healthy Mothers/Healthy Children Grant Program not later than April 1, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

PREVENTIVE HEALTH PROGRAM PLAN

Section 11.64. The Department of Health and Human Services shall develop a plan to reduce duplication among preventive health programs and initiatives, focusing on task forces, advisory committees, local health departments, and other entities supported by and within the Chronic Disease Prevention and Control Section of the Division of Public Health. In developing the plan, the Department shall do the following:

(1) Examine the goals of each program or initiative to identify areas of commonality and differences;

(2) Explore alternative ways of organizing the Section to achieve greater efficiency and effectiveness.

The Department shall report on the development of its plan to members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division not later than April 1, 2000.

Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Senators Martin of Guilford, Perdue, Plyler, Odom

ACCESS TO PREVENTIVE DENTAL CARE/HEALTH DEPARTMENTS

Section 11.65. G.S. 90-233(a) reads as rewritten:

"(a) A dental hygienist may practice only under the supervision of one or more licensed dentists. ~~Provided, however, that this~~ This subsection ~~(a)~~ shall be deemed to be complied with in the case of dental hygienists employed by ~~the Department of Health and Human Services~~ or under contract with a local health department or State government dental public health program and especially trained by ~~said Department~~ the Dental Health Section of the Department of Health and Human Services as public health ~~hygienists~~ hygienists, while performing their duties ~~in the public schools~~ for the persons officially served by the local health department or State government program under the direction of a duly licensed ~~dentist.~~ dentist employed by that program or by the Dental Health Section of the Department of Health and Human Services."

PART XII. HOUSING FINANCE AGENCY

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

HOME PROGRAM MATCHING FUNDS

Section 12.(a) Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

(1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and

(2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the United States Department of Housing and Urban Development.

The Housing Finance Agency shall report to the Joint Legislative Commission on Governmental Operations by April 1 of each year concerning the status of the HOME Program and shall include in the report information on priorities met, types of activities funded, and types of activities not funded.

Section 12.(b) If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

Section 12.(c) Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 2000, or on June 30, 2001.

Requested by: Representatives Clary, Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

AFFORDABLE ELDERLY HOUSING FUNDS

Section 12.1. Of the funds appropriated in this act to the Housing Finance Agency for the Housing Trust Fund, the sum of two million five hundred thousand dollars ($2,500,000) for the 1999-2000 fiscal year and five hundred thousand dollars ($500,000) for the 2000-2001 fiscal year shall be used for affordable housing for the elderly.

PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

STATE BUDGET STUDY OF AGRICULTURAL LOANS AND GRANTS PROGRAM

Section 13.1. The Office of State Budget and Management shall study all private and public farm loans and grants programs available throughout the State, including those available through the Department of Agriculture and Consumer Services, under Article 2 of Chapter 137 of the General Statutes and under Chapter 122D of the General Statutes, to determine the effectiveness and efficiency of each of these programs, whether any duplication exists among any of these programs, and whether any consolidation of any of these programs is warranted. No later than May 1, 2000, the Office of State Budget and Management shall report its findings and any recommendations to the Fiscal Research Division.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

ASSISTANCE FOR SMALL, FAMILY FARMS

Section 13.2. Of the funds appropriated in this act to the Department of Agriculture and Consumer Services for the 1999-2000 fiscal year, the sum of fifty thousand dollars ($50,000) shall be used to provide assistance to farmers who operate small, family farms. By March 1, 2000, the Department shall report to the Joint Legislative Commission on Governmental Operations, the Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate, and the Fiscal Research Division on the use of these funds, including the number and geographic location of the small, family farms assisted through this allocation of funds, the type of assistance provided, and any other information or indicators that demonstrate the overall impact of this allocation of funds.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

GUIDELINES FOR GRANTS FOR LOCAL AGRICULTURAL FAIRS

Section 13.3. The Department of Agriculture and Consumer Services shall adopt guidelines for the disbursement of funds appropriated to the Department for grants for local agricultural fairs.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

SOUTHERN DAIRY COMPACT COMMISSION FUNDS

Section 13.4.(a) Of the funds appropriated in this act to the Department of Agriculture and Consumer Services, the sum of five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year shall be credited to a nonreverting reserve within the Department of Agriculture and Consumer Services for the start-up costs of the Southern Dairy Compact Commission, to be established pursuant to Section 4 of Article III of the Southern Dairy Compact, as set forth in G.S. 106-810, and the initial costs of administration and enforcement of the Southern Dairy Compact.

Section 13.4.(b) The Director of the Budget shall make no disbursements from the reserve established in subsection (a) of this section to the Southern Dairy Compact Commission unless Congress ratifies legislation authorizing the operation of the Southern Dairy Compact, and the State of North Carolina and the Southern Dairy Compact Commission enter into a contract, approved by the Attorney General and the Commissioner of Agriculture, that contains all of the following provisions:

(1) That the administrative headquarters of the Southern Dairy Compact Commission shall be located within this State.

(2) That all funds disbursed from the reserve to the Southern Dairy Compact Commission shall be repaid to the State, plus interest at an amount to be agreed upon by the parties, from revenue pledged by the Commission, assessments collected by the Commission, or the reserve of the Commission, in accordance with a repayment schedule to be agreed upon by the parties.

(3) That the Southern Dairy Compact Commission shall issue notes to the State of North Carolina in the amount of the funds disbursed from the reserve under this section.

(4) That, prior to each disbursement, the Southern Dairy Compact Commission shall itemize the needs of the Commission to be served by the requested disbursement and an itemized list showing how the most recent disbursement was spent.

Section 13.4.(c) The contract under this section shall not contain any provision that prevents another participating state, as defined in Section 2 of Article II of the Southern Dairy Compact as set forth in G.S. 106-810, from providing some or all of the start-up costs

of the Southern Dairy Compact Commission or its initial costs of administration and enforcement of the Southern Dairy Compact.

Section 13.4.(d) All sums repaid to the State pursuant to the contract under this section shall be credited to the General Fund.

Section 13.4.(e) Any funds not disbursed from the reserve under this section by the end of the term of years provided in the contract under this section shall revert at the end of that fiscal year.

Section 13.4.(f) Upon the failure of Congress to ratify legislation authorizing the operation of the Southern Dairy Compact by June 30, 2001, all funds in the reserve shall revert to the General Fund.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

LOAN PROGRAM FOR SMALL, FAMILY-OWNED FARMS

Section 13.5.(a) The funds appropriated in this act to the North Carolina Rural Rehabilitation Corporation within the Department of Agriculture and Consumer Services for the 1999-2000 fiscal year shall be used to make loans to those farmers of small, family-owned farms having financial difficulty as shown by their inability to obtain affordable conventional loans from other sources.

Section 13.5.(b) The term of the loans under subsection (a) of this section shall not exceed 20 years. These loans shall be provided in accordance with the lending requirements of the North Carolina Rural Rehabilitation Corporation pursuant to Article 2 of Chapter 137 of the General Statutes.

Section 13.5.(c) The Department of Agriculture and Consumer Services shall adopt rules to implement this section.

Section 13.5.(d) Subsection (b) of Section 13.8 of S.L. 1998-212 is repealed.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Perdue, Odom

MANDATORY EQUINE INFECTIOUS ANEMIA TESTING FUNDS

Section 13.6.(a) No later than October 1, 1999, the Board of Agriculture shall adopt rules pursuant to its authority under G.S. 106-405.17 to provide for the mandatory testing of equines for equine infectious anemia prior to sale or prior to exhibition or assembly at public stables or other public places.

Section 13.6.(b) Funds appropriated in this act to the Department of Agriculture and Consumer Services for the 1999-2000 fiscal year and for the 2000-2001 fiscal year shall be used for the costs of enforcing the mandatory testing program under subsection (a) of this section.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom, Kerr

INCREASE GRAPE GROWERS FUNDS

Section 13.7. G.S. 105-113.81A reads as rewritten:

"§ *105-113.81A. Distribution of part of wine taxes attributable to North Carolina wine.*

The Secretary shall on a quarterly basis credit to the Department of Agriculture and Consumer Services ninety-four percent (94%) of the net proceeds of the excise tax collected on unfortified wine bottled in North Carolina during the previous quarter and ninety-five percent (95%) of the net proceeds of the excise tax collected on fortified wine bottled in North Carolina during the previous quarter, except that the amount credited to the Department of Agriculture and Consumer Services under this section shall not exceed ~~one hundred fifty thousand dollars ($150,000)~~ one hundred seventy-five thousand dollars ($175,000) per fiscal year. The Department of Agriculture and Consumer Services shall allocate the funds received under this section to the North Carolina Grape Growers Council to be used to promote the North Carolina grape and wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the Department of Agriculture and Consumer Services under this section that are not expended by June 30 of any fiscal year may not revert to the General Fund, but shall remain available to the Department for the uses set forth in this section."

PART XIV. DEPARTMENT OF LABOR

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

DEPARTMENT OF LABOR/BUDGET OVER-REALIZED INDIRECT COST RECEIPTS

Section 14. The Department of Labor may budget over-realized indirect cost receipts up to two hundred thousand dollars ($200,000) in the 1999-2000 fiscal year and up to three hundred thousand dollars ($300,000) in the 2000-2001 fiscal year to fund departmental technology needs.

Requested by: Representatives Earle, Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

YOUTH EMPLOYMENT CERTIFICATES

Section 14.1. G.S. 95-25.5(a) reads as rewritten:

"(a) No youth under 18 years of age shall be employed by any employer in any occupation without a youth employment certificate unless specifically exempted. The Commissioner of Labor shall prescribe regulations for youths and employers concerning the issuance, maintenance and revocation of certificates. Certificates will be issued, subject to review by the Department of Labor, by county directors of social services and such of their designees as are approved by the Commissioner; provided, the Commissioner may ~~by regulation require that the Department of Labor issue certificates for occupations with unusual or unique characteristics.~~ also issue certificates, both directly and electronically."

PART XV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

SPECIAL RESERVE FUNDS FOR FOREST SEEDLING PROGRAM/BLADEN LAKES STATE FOREST

Section 15. G.S. 113-36 reads as rewritten:

"§ *113-36. Applications of proceeds from sale of products.*

(a) Application of Proceeds Generally. -- Except as provided in ~~subsection (b) of~~ this section, all money received from the sale of wood, timber, minerals, or other products from the State forests shall be paid into the State treasury and to the credit of the Department; and such money shall be expended in carrying out the purposes of this Article and of forestry in general, under the direction of the Secretary.

(b) Tree Cone and Seed Purchase Fund. -- A percentage of the money obtained from the sale of seedlings and remaining unobligated at the end of a fiscal year, shall be placed in a special, continuing and nonreverting Tree Cone and Seed Purchase Fund under the control and direction of the Secretary. The percentage of the sales placed in the fund shall not exceed ten percent (10%). At the beginning of each fiscal year, the Secretary shall select the percentage for the upcoming fiscal year depending upon the anticipated costs of tree cones and seeds which the department must purchase. Money in this fund shall not be allowed to accumulate in excess of the amount needed to purchase a four-year supply of tree cones and seed, and shall be used for no purpose other than the purchase of tree cones and seeds.

(c) Forest Seedling Nursery Program Fund. -- The Forest Seedling Nursery Program Fund is created within the Department of Environment and Natural Resources, Division of Forest Resources, as a special revenue fund. Except as provided in subsection (b) of this section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in G.S. 113-35 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.

(d) Bladen Lakes State Forest Fund. -- The Bladen Lakes State Forest Fund is created within the Department of Environment and Natural Resources, Division of Forest Resources, as a special revenue fund. This Fund shall consist of receipts from the sale of forest products from Bladen Lakes State Forest as authorized in G.S. 113-35 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Bladen Lakes State Forest."

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUNDS

Section 15.1.(a) Of the funds appropriated in this act to the Wildlife Resources Commission, the sum of five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year and the sum of five hundred thousand dollars ($500,000) for the 2000-2001 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars ($25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

Section 15.1.(b) G.S. 113-291.10(a) reads as rewritten:

"(a) There is established the Beaver Damage Control Advisory Board. The Board shall consist of nine members, as follows:

(1) The Executive Director of the North Carolina Wildlife Resources Commission, or his designee, who shall serve as chair;

(2) The Commissioner of Agriculture, or a designee;

(3) The Director of the Division of Forest Resources of the Department of Environment and Natural Resources, or a designee;

(4) The Director of the Soil and Water Conservation Division of the Department of Environment and Natural Resources, or a designee;

(5) The Director of the North Carolina Cooperative Extension Service, or a designee;

(6) The Secretary of Transportation, or a designee;

(7) The State Director of the ~~Animal Damage Control~~ Wildlife Services Division of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or a designee;

(8) The President of the North Carolina Farm Bureau Federation, Inc., or a designee, representing private landowners; and

(9) A representative of the North Carolina Forestry Association."

Section 15.1.(c) G.S. 113-291.10(c) reads as rewritten:

"(c) The Wildlife Resources Commission shall implement the program, and may enter a cooperative agreement with the ~~Animal Damage Control~~ Wildlife Services Division of the Animal and Plant Health Inspection Service, United States Department of Agriculture, to accomplish the program."

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

GRASSROOTS SCIENCE PROGRAM

Section 15.2. Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million six hundred seventy

thousand dollars ($3,670,000) for fiscal year 1999-2000 and the sum of three million four hundred twenty thousand dollars ($3,420,000) for fiscal year 2000-2001 are allocated as grant-in-aid for each fiscal year as follows:

	1999-2000	2000-2001
Aurora Fossil Museum	$64,066	$64,066
Cape Fear Museum	$203,944	$203,944
Catawba Science Center	$179,172	$179,172
Colburn Gem and Mineral Museum, Inc.	$63,942	$63,942
Discovery Place	$776,577	$776,577
Granville County Museum Commission, Inc. - Harris Gallery	$54,420	$54,420
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$210,860	$210,860
Imagination Station	$108,202	$108,202
Iredell County Children's Museum	$56,243	$56,243
Museum of Coastal Carolina	$318,274	$68,274
Natural Science Center of Greensboro	$321,802	$321,802
North Carolina Museum of Life and Science	$465,240	$465,240
Rocky Mount Children's Museum	$98,007	$98,007
Schiele Museum of Natural History	$381,489	$381,489
Sci Works Science Center and Environmental Park of Forsyth County	$247,501	$247,501
Western North Carolina Nature Center	$120,261	$120,261
Total	$3,670,000	$3,420,000

Requested by: Representatives Baker, Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

TOWN FORK CREEK SOIL CONSERVATION PROJECT

Section 15.3.(a) Section 15.11 of S.L. 1997-443 reads as rewritten:

"Section 15.11. (a) The funds placed in a reserve account in the Department of Environment, Health, and Natural Resources pursuant to Section 26.3(c) of Chapter 507 of the 1995 Session Laws shall not revert until June 30, ~~1999.~~ 2001. Those funds are reallocated as follows:

(1) Five hundred four thousand five hundred sixty dollars ($504,560) to the Stokes County Water and Sewer Authority, Inc., for the Germanton Water Project.

(2) Nine hundred thirty thousand six hundred eighty dollars ($930,680) to the Stokes County Water and Sewer Authority, Inc., for the Madison Connection Project.

(3) Eighty thousand dollars ($80,000) to the Stokes County Water and Sewer Authority, Inc., for the Dan River Project.

Requested by: Representatives Baker, Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

TOWN FORK CREEK SOIL CONSERVATION PROJECT

Section 15.3.(a) Section 15.11 of S.L. 1997-443 reads as rewritten:

"Section 15.11. (a) The funds placed in a reserve account in the Department of Environment, Health, and Natural Resources pursuant to Section 26.3(c) of Chapter 507 of the 1995 Session Laws shall not revert until June 30, ~~1999.~~ 2001. Those funds are reallocated as follows:

(1) Five hundred four thousand five hundred sixty dollars ($504,560) to the Stokes County Water and Sewer Authority, Inc., for the Germanton Water Project.

(2) Nine hundred thirty thousand six hundred eighty dollars ($930,680) to the Stokes County Water and Sewer Authority, Inc., for the Madison Connection Project.

(3) Eighty thousand dollars ($80,000) to the Stokes County Water and Sewer Authority, Inc., for the Dan River Project.

(4) Thirty thousand dollars ($30,000) to the Department of Environment, Health, and Natural Resources for the Limestone Creek small watershed project in Duplin County.

(5) Three hundred forty thousand six hundred forty dollars ($340,640) to the Department of Environment, Health, and Natural Resources for the Deep Creek small watershed project in Yadkin County.

(b) The Department of Environment, Health, and Natural Resources and the Stokes County Water and Sewer Authority, Inc., shall report by October 1 and March 1 of each fiscal year to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and the Office of State Budget and Management regarding the use of the funds reallocated by this section. Each report shall include all of the following:

(1) The estimated cost of each project.

(2) The date that work on each project began or is expected to begin.

(3) The date that work on each project was completed or is expected to be completed.

(4) The actual cost of each project."

Section 15.3.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Fox, Owens, Baker, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

MEADOW BRANCH WATER PROJECT AND DEEP CREEK PROJECT/EXTEND REVERSION DATE

Section 15.4.(a) Section 107(b) of Chapter 561 of the 1993 Session Laws as rewritten by Section 26.1 of Chapter 507 of the 1995 Session Laws and Section 15.46 of S.L. 1997-443 reads as rewritten:

"(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1993-94 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund:

(1) Corps of Engineers project feasibility studies, or

(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1993-94, or

(3) State-local Water Resources Development Projects.

Funds, except those allocated in subdivisions (a)(14), (15), (16), and (17) of this section, not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1994-95 fiscal year. The funds allocated in subdivisions (a)(14), and (16) of this section shall not revert until June 30, 1997. The funds allocated in subdivisions (15) and (17) of this section shall not revert until June 30, ~~1999.~~ 2001."

Section 15.4.(b) Subsection (b) of Section 27.12 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1995-96 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.

(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1995-96.

(3) State-local Water Resources Development Projects.

(4) Soil Conservation Projects whose schedules have advanced and require State matching funds in fiscal year 1995-96.

~~Funds~~ Funds, except those allocated in subdivision (a)(12) of this section, not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1996-97 fiscal year. The funds allocated in subdivision (a)(12) of this section shall not revert until June 30, 2001."

Section 15.4.(c) Subsection (b) of Section 34.7 of S.L. 1997-443 reads as rewritten:

"(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1997-98 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.

(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1997-98.

(3) State-local Water Resources Development Projects.

~~Funds~~ Funds, except those allocated in subdivision (a)(18) of this section, not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1998-99 fiscal year. The funds allocated in subdivision (a)(18) of this section shall not revert until June 30, 2001."

Section 15.4.(d) This section becomes effective June 30, 1999.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

NER INTERIM STUDY OF DENR ORGANIZATION

Section 15.5. During the interim between the Session of the 1999 General Assembly and the 2000 Regular Session of the 1999 General Assembly, the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives shall study the current organization of the Department of Environment and Natural Resources to determine its effectiveness and efficiency and shall report any recommendations, including any legislative proposals, to the 2000 Regular Session of the 1999 General Assembly no later than May 1, 2000. The Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate may obtain assistance from any resources outside the General Assembly that the Subcommittees determine are needed to adequately perform their study.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

SUPERFUND PROGRAM/INACTIVE HAZARDOUS SITES FUNDS

Section 15.6.(a) The Department of Environment and Natural Resources may use available funds, with the approval of the Office of State Budget and Management, to provide the ten percent (10%) cost share required for Superfund cleanups on the National Priority List sites, to pay the operating and maintenance costs associated with these Superfund cleanups, and for the cleanup of priority inactive hazardous substance or waste disposal sites under Part 3 of Article 9 of Chapter 130A of the General Statutes. These funds may be in addition to those appropriated for this purpose.

Section 15.6.(b) The Department of Environment and Natural Resources and the Office of State Budget and Management shall report to the Environmental Review Commission and the Joint Legislative Commission on Governmental Operations the amount and the source of the funds used pursuant to subsection (a) of this section within 30 days of the expenditure of these funds.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

FUNDS FOR VOLUNTARY REMEDIAL ACTIONS

Section 15.7.(a) During the 1999-2001 fiscal biennium, the Secretary of Environment and Natural Resources may contribute from the Inactive Hazardous Sites Cleanup Fund up to ten percent (10%) of the cost each fiscal year, not to exceed fifty thousand dollars ($50,000) per site, of implementing a voluntary remedial action program at up to three high-priority sites that substantially endanger public health or the environment.

Section 15.7.(b) No later than April 1 of each year of the 1999-2001 fiscal biennium, the Department of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Each report shall contain the location of the sites for which a voluntary remedial action program was implemented under subsection (a) of this section, the rationale for the State contributing to the cost of that remedial action, and the amount of the contribution made from the Inactive Hazardous Sites Cleanup Fund.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

DENR POSITION FOR SCRAP TIRE PROGRAM

Section 15.8. Notwithstanding the provisions of G.S. 130A-309.63, the Department of Environment and Natural Resources may use funds in the Scrap Tire Disposal Account that, pursuant to G.S. 130A-309.63(d), are to be used for the cleanup of scrap tire collection sites to maintain and support a position for the 1999-2000 fiscal year and for the 2000-2001 fiscal year to provide regulatory assistance to local governments to develop programs to prevent scrap tires from outside the State from being presented for free disposal and to complete the cleanup of nuisance tire collection sites.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

POLLUTION PREVENTION AND ENVIRONMENTAL ASSISTANCE TO SMALL BUSINESSES WITH NEED

Section 15.9. The Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources shall, to the extent feasible, give greatest priority to small businesses that can demonstrate financial need when the Division of Pollution Prevention and Environmental Assistance awards grants or otherwise provides technical or financial assistance.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

DENR STUDY ONE-STOP PERMIT PROCESS

Section 15.10. The Department of Environment and Natural Resources shall study the feasibility and benefits of implementing a

one-stop permit system to improve coordination within the Department with respect to processing environmental permit applications, communication with the regulated community, and regulatory compliance. The Department shall consider the State of New Jersey's ONE STOP program, which uses a project team composed of permitting, compliance, and enforcement staff to review the permit application, as a model. No later than February 15, 2000, the Department shall report to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate, and the Fiscal Research Division on their findings and recommendations.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

REPEAL DUPLICATE REPORTING REQUIREMENT FOR CLEAN WATER MANAGEMENT TRUST FUND

Section 15.11. G.S. 113-145.6(i) is repealed.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

ENVIRONMENTAL EDUCATION GRANTS

Section 15.12.(a) Of the two hundred thousand dollars ($200,000) appropriated in this act to the Department of Environment and Natural Resources for the 1999-2000 fiscal year for environmental education grants, up to fifty thousand dollars ($50,000) may be used by the Department for the 1999-2000 fiscal year for the costs of administering the environmental education grants. The remainder of these funds shall be used to provide grants to promote environmental education throughout the State. Grants under this section may be awarded to:

(1) Schools, community organizations, and environmental education centers for the development of environmental education library collections; or

(2) School groups for field trips to environmental education centers across the State, provided the activities of the field trip are correlated with the Department of Public Instruction's curriculum objectives.

Section 15.12.(b) The Department of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division by January 1, 2000, and again by July 1, 2000, on the grant program. The report shall include a list of amounts awarded and project descriptions for each grant recipient.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

PARTNERSHIP FOR THE SOUNDS

Section 15.13.(a) Subject to subsection (c) of this section, the Partnership for the Sounds, Inc., shall, no later than January 15, 2000, submit a report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division that provides the following information:

(1) Program activities, objectives, and accomplishments for the 1998-99 fiscal year;
(2) Itemized expenditures and fund sources for the 1998-99 fiscal year;
(3) Planned activities, objectives, and accomplishments for the 1999-2000 fiscal year, including actual results through December 31, 1999; and
(4) Estimated itemized expenditures and fund sources for the 1999-2000 fiscal year, including actual expenditures and fund sources through December 31, 1999.

Section 15.13.(b) Subject to subsection (c) of this section, the Partnership for the Sounds, Inc., shall, no later than January 15, 2001, submit a report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division that provides the following information:

(1) Program activities, objectives, and accomplishments for the 1999-2000 fiscal year;
(2) Itemized expenditures and fund sources for the 1999-2000 fiscal year;
(3) Planned activities, objectives, and accomplishments for the 2000-2001 fiscal year, including actual results through December 31, 2000; and
(4) Estimated itemized expenditures and fund sources for the 2000-2001 fiscal year, including actual expenditures and fund sources through December 31, 2000.

Section 15.13.(c) The Partnership for the Sounds, Inc., shall provide additional reports to the Joint Legislative Commission on Governmental Operations or the Fiscal Research Division upon request.

Section 15.13.(d) The Partnership for the Sounds, Inc., shall provide a copy of its annual audited financial statement to the Fiscal Research Division within 30 days of issuing the financial statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Hackney, Senators Martin of Pitt, Plyler, Perdue, Odom

NORTH CAROLINA WATER QUALITY WORKGROUP INITIATIVE/RIVERNET MONITORING SYSTEM PILOT PROGRAM/RESEARCH FUNDS

Section 15.14.(a) The Department of Environment and Natural Resources and North Carolina State University shall jointly establish the North Carolina Water Quality Workgroup. The Workgroup shall work collaboratively with the appropriate divisions of the Department of Environment and Natural Resources and North Carolina State University, the Scientific Advisory Council on Water

Resources and Coastal Fisheries Management, the Environmental Management Commission, and the Environmental Review Commission to identify the scientific and State agency databases that can be used to formulate public policy regarding the State's water quality, evaluate those databases to determine the information gaps in those databases, and establish the priorities for obtaining the information lacking in those databases. The Workgroup shall have the following duties:

(1) To address specifically the ongoing need of evaluation, synthesis, and presentation of current scientific knowledge that can be used to formulate public policy on water quality issues.
(2) To identify knowledge gaps in the current understanding of water quality problems and fill these gaps with appropriate research projects.
(3) To maintain a web-based water quality data distribution site.
(4) To organize and evaluate existing scientific and State agency water quality databases.
(5) To prioritize recognized knowledge gaps in water quality issues for immediate funding.

Section 15.14.(b) The North Carolina Water Quality Workgroup shall be composed of no more than 15 members. Those members shall be jointly appointed by the Chancellor of North Carolina State University and the Secretary of Environment and Natural Resources. Any person appointed as a member of the Workgroup shall be knowledgeable in one of the following areas:

(1) Water Quality Assessment, Water Quality Monitoring and Permitting.
(2) Nutrient Management.
(3) Water Pollution Control.
(4) Waste Management.
(5) Groundwater Resources.
(6) Stream Hydrology.
(7) Aquatic Biology.
(8) Environmental Education and Web-Based Data Dissemination.

Section 15.14.(c) North Carolina State University shall provide meeting facilities for the North Carolina Water Quality Workgroup as requested by the Chair.

Section 15.14.(d) The members of the North Carolina Water Quality Workgroup shall elect a Chair. The Chair shall call meetings of the Workgroup and set the meeting agenda.

Section 15.14.(e) The Chair of the North Carolina Water Quality Workgroup shall report each year by January 30 to the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, to the Environmental Review Commission, to the Cochairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and to the Chancellor of North Carolina State University or the Chancellor's

designee on the previous year's activities, findings, and recommendations of the North Carolina Water Quality Workgroup.

Section 15.14.(f) The North Carolina Water Quality Workgroup shall develop a water quality monitoring system to be known as Rivernet that effectively uses the combined resources of North Carolina State University and State agencies. The Rivernet system shall be designed to implement advances in monitoring technology and information management systems with web-based data dissemination in the waters that are impaired based on the criteria of the State's basinwide water quality management plans. Water quality and nutrient parameters shall be continuously monitored at each station, and the data shall be sent back to a centralized computer server.

The Rivernet system shall be coordinated with related data collection and monitoring activities of the Department of Environment and Natural Resources, the Water Resources Research Institute, the North Carolina Water Quality Workgroup, and other research efforts pursued by academic institutions or State government entities. If the North Carolina Water Quality Workgroup chooses to employ a technology for which there are testing procedure guidelines promulgated by the United States Environmental Protection Agency, the American Public Health Association, the American Water Works Association, or the Water Environment Federation then the testing procedures shall comply with the appropriate guidelines. If the North Carolina Water Quality Workgroup chooses to employ a technology for which there are no testing procedure guidelines promulgated by any of the groups cited in this subsection, then the North Carolina Water Quality Workgroup may establish testing procedure guidelines.

The Rivernet system shall also have the capabilities to trigger alarms and notify the appropriate member of the Workgroup when monitoring stations exceed defined limits indicating a spill or a significant water quality or nutrient measurement event, which then can be comprehensively analyzed.

Section 15.14.(g) For the 1999-2001 biennium, the North Carolina Water Quality Workgroup shall select as a pilot project site an area of impaired waters within one of the State's river basins based on criteria of the State's basinwide water quality management plans and shall implement a Rivernet monitoring system pilot project in those waters.

Section 15.14.(h) Of the funds appropriated by this act to the Department of Environment and Natural Resources, the sum of one million two hundred thousand dollars ($1,200,000) for the 1999-2000 fiscal year and the sum of seven hundred thousand dollars ($700,000) for the 2000-2001 fiscal year shall be used to implement this section. Those funds shall be allocated as follows:

(1) $300,000 shall be transferred for the 1999-2000 fiscal year and $300,000 for the 2000-2001 fiscal year to the Board of Governors of The University of North Carolina for North Carolina State University to use for operating costs of the

collectively close knowledge policy gaps with regard to the State's water quality and the nutrient levels of impaired waters.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

PITT LANDFILL REIMBURSEMENT FUNDS

Section 15.15. Notwithstanding G.S. 130A-309.83, three hundred thousand dollars ($300,000) of the funds credited to an account established under G.S. 130A-309.83 shall be transferred to the Department of Environment and Natural Resources for the 1999-2000 fiscal year to be used to partially reimburse Pitt County for the substantial costs Pitt County has incurred to monitor, investigate, and contain contamination caused by the disposal of hazardous waste at its county landfill in 1979 at the State's urging and with the State's assurance of protection.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Plyler, Perdue, Odom

WARREN COUNTY PCB LANDFILL DETOXIFICATION FUNDS

Section 15.16. Notwithstanding G.S. 130A-309.83, one million dollars ($1,000,000) of the funds credited to an account established under G.S. 130A-309.83 shall be transferred to the Department of Environment and Natural Resources for the 1999-2000 fiscal year and placed in the nonreverting reserve established under Section 29.9(a) of S.L. 1998-212 to be used for the detoxification of the Warren County polychlorinated biphenyl (PCB) landfill consistent with the provisions of Section 29.9 of S.L. 1998-212.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

FOOD SERVICE AT NORTH CAROLINA AQUARIUMS

Section 15.17.(a) Notwithstanding Article 3 of Chapter 111 of the General Statutes, the North Carolina Aquariums may operate or contract for the operation of food or vending services at the North Carolina Aquariums. Notwithstanding G.S. 111-43, the net proceeds of revenue generated by food and vending services that are provided at the North Carolina Aquariums and are operated by or whose operation is contracted for by the Division of North Carolina Aquariums shall be credited to the North Carolina Aquariums Fund.

Section 15.17.(b) This section shall not be construed to alter any contract for food or vending services at the North Carolina Aquariums that is in force at the time this section becomes law.

Section 15.17.(c) The Revisor of Statutes shall codify this section in Article 3 of Chapter 111 of the General Statutes.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Perdue, Plyler, Odom

BEACH AND MOUNTAIN RESTORATION PLAN

Section 15.18. The Department of Environment and Natural Resources shall evaluate the current condition of North Carolina's beaches and mountains and shall develop recommendations for a State plan to address issues of environmental protection, conservation, preservation, and restoration. The recommendations shall include proposed State, federal, and local government sources of funding for implementation of the plan.

The Department shall report the results of the evaluation and its recommendations to the Environmental Review Commission and the Joint Legislative Commission on Governmental Operations prior to April 15, 2000.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

BASINWIDE INFORMATION MANAGEMENT SYSTEM

Section 15.19.(a) Notwithstanding G.S. 143-16.3, the Department of Environment and Natural Resources may use up to eight hundred ninety thousand dollars ($890,000) in available funds as provided by subsection (b) of this section for the 1999-2000 fiscal year to continue development of the Basinwide Information Management System to facilitate access to environmental programs, information, and data. These funds may be used in addition to any federal funds received by the Department for this purpose.

Section 15.19.(b) No funds shall be diverted from programs or activities authorized by the General Assembly in this act to implement this section, unless those funds would otherwise revert. No programs or activities authorized by the General Assembly shall be delayed to implement this section.

PART XVI. DEPARTMENT OF COMMERCE

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

DEPARTMENT OF COMMERCE BUDGET REVISIONS

Section 16. The Department of Commerce, in consultation with and upon approval of the Office of State Budget and Management, shall make the necessary revisions to its budget to ensure that positions and related operating funds are budgeted in the appropriate fund codes of the divisions to which the positions are assigned and the operating expenses support. These revisions should result in a departmental budget that accurately reflects the Department's organizational structure and lines of management. The budget revisions shall be submitted to and approved by the Office of State Budget and Management not later than January 1, 2000. The Department of Commerce shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division a progress report no later than October 15, 1999, and a final report no later than January 15, 2000, on all budget revisions made to implement this section.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

WANCHESE SEAFOOD INDUSTRIAL PARK FUNDS

Section 16.1. Of the funds appropriated in this act to the Department of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-one thousand one hundred twenty dollars ($121,120) for the 1999-2000 fiscal year and the sum of one hundred twenty-one thousand one hundred twenty dollars ($121,120) for the 2000-2001 fiscal year may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds available to the Authority for these purposes.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

INDUSTRIAL RECRUITMENT COMPETITIVE FUND

Section 16.2.(a) Funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina. Monies allocated from the Fund shall be used for the following purposes:

(1) Installation or purchase of equipment;
(2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and
(3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Monies may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of monies from the Fund.

Section 16.2.(b) The Department of Commerce shall report on or before October 1, 1999, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

Section 16.3.(a) Funds appropriated in this act to the Department of Commerce for regional economic development

commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

Section 16.3.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3;

(2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of two hundred forty thousand three hundred fifty dollars ($240,350) in each fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of two hundred forty thousand three hundred fifty dollars ($240,350) in each fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

REGIONAL COMMISSION REPORTS

Section 16.4.(a) Each regional economic development commission receiving a grant-in-aid from the Department of Commerce shall:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Department of Commerce the following information:

a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
b. State fiscal year 1998-99 itemized expenditures and fund sources;
c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments as specified in subdivisions (b)(1) through (b)(6) of this section including actual results through December 31, 1999;
d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999.

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Department of Commerce the following information:
a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
b. State fiscal year 1999-2000 itemized expenditures and fund sources;
c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments as specified in subdivisions (b)(1) through (b)(6) of this section including actual results through December 31, 2000;
d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000.

(3) Provide to the Fiscal Research Division and the Department of Commerce a copy of its annual audited financial statement within 30 days of issuance of the statement.

Section 16.4.(b) Each regional economic development commission receiving a grant-in-aid from the Department of Commerce in each fiscal year of the 1999-2001 biennium shall by January 15 of each fiscal year report to the Department of Commerce the following information for the most recently completed fiscal year:

(1) The number of and description of marketing outreach events including trade shows, recruitment missions, and related activities;
(2) The number of jobs saved;
(3) The amount of investment and number of jobs created by the direct efforts of a commission;
(4) Initiatives undertaken to establish certified sites and shell buildings;
(5) The number of referrals or leads handled that were generated by the Department of Commerce;
(6) The number and listing of available sites and buildings within the region served by a commission;
(7) A listing of major accomplishments.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

REPEAL STATUTORY REPORTING REQUIREMENTS FOR REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS

Section 16.5.(a) G.S. 158-8.1(e) reads as rewritten:

"(e) In addition to the powers and duties granted to economic development commissions in this Article, the Western North Carolina Regional Economic Development Commission shall:

(1) Survey Western North Carolina and determine the assets, liabilities, and resources that the region contributes to the economic development process.

(2) Develop and evaluate alternatives for Western North Carolina economic development.

(3) Develop a preferred economic development plan for the region and establish strategies for implementing the plan.

(4) Coordinate activities with and enter into contracts with any nonprofit corporation created to assist the Commission in carrying out its powers and duties.

~~(5) Report to the General Assembly by March 31 each year on the work of the Commission.~~"

Section 16.5.(b) G.S. 158-8.2(f) reads as rewritten:

"(f) In addition to the powers and duties granted to economic development commissions in this Article, the Northeastern North Carolina Regional Economic Development Commission shall:

(1) Adopt and implement an economic development program, with the assistance of the economic development advisory board, as follows:

a. Survey northeastern North Carolina and determine the assets, liabilities, and resources that the region contributes to the economic development process;

b. Enhance economic development activities that use the area's natural resources;

c. Develop and evaluate alternatives for northeastern North Carolina economic development;

d. Develop a preferred economic development plan for the region and establish strategies for implementing the plan;

e. Conduct feasibility studies to determine the nature and placement of economic developments for maximum economic impact;

f. Identify potential sites for economic development; and

g. Carry out other activities to develop and promote economic development;

(2) Adopt and implement a tourism development program, with the advice and assistance of the tourism advisory board, as follows:

a. Adopt, implement, and update a water-based tourism development strategy;

b. Provide assistance to developers with requirements for tourism development, as deemed necessary by the Commission;
c. Conduct feasibility studies to determine the nature and placement of tourism developments for maximum economic impact;
d. Identify sites for tourism development; and
e. Carry out other activities to develop and promote water-based tourism; and

(3) Coordinate activities with and enter into contracts with any nonprofit corporation created to assist the Commission in carrying out its powers and ~~duties; and~~ duties.

~~(4) Report to the General Assembly by March 31 each year on the work of the Commission.~~"

Section 16.5.(c) G.S. 158-8.3(e) reads as rewritten:

"(e) In addition to the powers and duties granted to economic development commissions in this Article, the Southeastern North Carolina Regional Economic Development Commission shall:

(1) Survey southeastern North Carolina and determine the assets, liabilities, and resources that the region contributes to the economic development process;
(2) Develop and evaluate alternatives for southeastern North Carolina economic development;
(3) Develop a preferred economic development plan for the region and establish strategies for implementing the plan; and
(4) Coordinate activities with and enter into contracts with any nonprofit corporation created to assist the Commission in carrying out its powers and ~~duties; and~~ duties.

~~(5) Report to the General Assembly by March 31 each year on the work of the Commission.~~"

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

MODIFY NORTHEAST REGIONAL ECONOMIC DEVELOPMENT COMMISSION

Section 16.6.(a) G.S. 158-8.2, as amended by Section 16.5(b) of this act, reads as rewritten:

"§ *158-8.2. Creation of Northeastern North Carolina Regional Economic Development Commission.*

(a) There is created the Northeastern North Carolina Regional Economic Development Commission to facilitate economic development ~~and tourism development~~ in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the

Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) The Commission shall consist of 18 appointed members and ~~two~~ one ex officio ~~members,~~ member, as ~~follows:~~ provided below. Each appointed member shall be an experienced business person who resides for most of the year in one or more of the counties that are members of the Commission.

(1) Six members shall be appointed by the ~~Governor, including one developer of northeastern North Carolina, one banker, one county commissioner from Camden, Currituck, Pasquotank, or Perquimans Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law, and one county commissioner from Beaufort, Bertie, Chowan, or Martin Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law.~~ Governor.

(2) Six members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. ~~120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Dare, Hyde, Tyrrell, or Washington Counties.~~ 120-121.

(3) Six members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. ~~120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Halifax, Hertford, Gates, or Northampton Counties.~~ 120-121.

(4) The Secretary of Commerce, or a designee.

~~(5) The Secretary of Cultural Resources, or a designee.~~

Any person appointed to the Commission ~~in a categorical appointment as~~ who is also a county commissioner may hold ~~such~~ that office in addition to the offices permitted by G.S. 128-1.1. The appointing authorities are encouraged to discuss and coordinate their appointments in an effort to ensure as many counties served by the Commission are represented among the membership of the Commission.

(c) ~~The appointing authority shall designate two of the initial appointees pursuant to subdivision (b)(1), one of the initial appointees pursuant to subdivision (b)(2), two of the initial appointees pursuant to subdivision (b)(3), and two of the initial appointees pursuant to subdivision (b)(4) to serve for terms ending June 30, 1995; the remainder of the initial appointees shall serve for terms ending June 30, 1997. Their successors shall serve for four-year terms ending on June 30 quadrennially thereafter.~~ All members shall serve staggered two-year terms ending on June 30 biennially.

(d) Any appointment to fill a vacancy on the Commission shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be in accordance with G.S. 120-122.

(d1) The initial meeting shall be called by the Secretary of the Department of Commerce. The Commission shall meet no less than quarterly.

(e) The Commission shall ~~appoint an economic development advisory board made up of no more than seven members to advise and assist the Commission in adopting and implementing an economic development program. The Commission shall also appoint a tourism advisory board made up of no more than seven members to advise and assist the Commission in adopting and implementing a tourism development program. Members of the Commission may serve on these advisory boards.~~ elect annually from among its membership a four-member executive committee consisting of a chair, a vice-chair, a secretary, and a treasurer. Members shall serve one-year terms on the executive committee. The executive committee shall meet no less than quarterly.

(f) In addition to the powers and duties granted to economic development commissions in this Article, the Northeastern North Carolina Regional Economic Development Commission shall:

(1) Adopt and implement an economic development program, with the assistance of the economic development advisory board, as follows:
   a. Survey northeastern North Carolina and determine the assets, liabilities, and resources that the region contributes to the economic development process;
   b. Enhance economic development activities that use the area's natural resources;
   c. Develop and evaluate alternatives for northeastern North Carolina economic development;
   d. Develop a preferred economic development plan for the region and establish strategies for implementing the plan;
   e. Conduct feasibility studies to determine the nature and placement of economic developments for maximum economic impact;
   f. Identify potential sites for economic development; and
   g. Carry out other activities to develop and promote economic ~~development;~~ development.

~~(2) Adopt and implement a tourism development program, with the advice and assistance of the tourism advisory board, as follows:~~
   ~~a. Adopt, implement, and update a water-based tourism development strategy;~~
   ~~b. Provide assistance to developers with requirements for tourism development, as deemed necessary by the Commission;~~

~~c. Conduct feasibility studies to determine the nature and placement of tourism developments for maximum economic impact;~~

~~d. Identify sites for tourism development; and~~

~~e. Carry out other activities to develop and promote water-based tourism;~~

(3) Coordinate activities with and enter into contracts with any nonprofit corporation created to assist the Commission in carrying out its powers and duties.

(g) Within the limits of funds available, the Commission may hire and fix the compensation of any personnel necessary to its operations, contract with consultants for any services as it may require, and contract with the State of North Carolina or the federal government, or any agency or department thereof, for any services as may be provided by those agencies. The Commission shall hire an employee to serve as president and chief executive officer. The Commission may carry out the provisions of any contracts it may enter.

Within the limits of funds available, the Commission may lease, rent, purchase, or otherwise obtain suitable quarters and office space for its staff, and may lease, rent, or purchase necessary furniture, fixtures, and other equipment.

(h) Members of the Commission who are State employees shall receive travel expenses as provided in G.S. 138-6. Other Commission members shall receive per diem of one hundred dollars ($100.00) a day for each day of service when the Commission meets and shall be reimbursed for travel and subsistence as provided in G.S. 138-5. ~~The Commission may adopt policies authorizing additional per diem of one hundred dollars ($100.00) a day for non-State employee members' additional days of service including Commission subcommittee meetings or other Commission activities, plus reimbursement for related travel and subsistence as provided in G.S. 138-5. Members of the advisory boards who are State employees shall receive travel expenses as provided in G.S. 138-6 for participating in meetings and other official activities authorized by the Commission. Other members of the advisory boards shall receive per diem and travel expenses as provided in G.S. 138-5 for participating in meetings and other official activities authorized by the Commission.~~"

Section 16.6.(b) The Northeastern North Carolina Regional Economic Development Commission shall make the transition from the former membership to the new membership provided in this section as follows:

(1) The present executive committee shall serve until a new executive committee is elected.

(2) The Governor and the General Assembly shall make the appointments provided in G.S. 158-8.2(b)(1) through (3) for terms beginning July 1, 1999. Each appointing authority shall designate one-half of the appointees to serve initial terms of three years and shall designate the remaining

appointees to serve two-year terms. Their successors shall serve two-year terms.

(3) On the date the members of the Commission appointed pursuant to this section take office, the terms of all current members of the Commission appointed before the effective date of this act expire.

Requested by: Representatives Hackney, Fox, Owens, Easterling, Hardaway, Redwine, Insko, Senators Martin of Pitt, Lee, Perdue, Plyler, Odom

CREATE A COMMISSION TO ADDRESS SMART GROWTH, GROWTH MANAGEMENT, AND DEVELOPMENT ISSUES

Section 16.7.(a) Of the funds appropriated in this act to the Department of Commerce, the sum of two hundred thousand dollars ($200,000) shall be transferred to the General Assembly to be used for the operating expenses of the Commission to Address Smart Growth, Growth Management, and Development Issues, as established in this section.

Section 16.7.(b) Commission Established. -- There is established a Commission to Address Smart Growth, Growth Management, and Development Issues.

Section 16.7.(c) Membership. -- The Commission shall consist of 37 members who shall represent, insofar as practicable, the diverse interests and geographic regions of the State. It shall include representatives from government, business, environmental interests, the professions, and citizens. The following members or their designees shall serve as ex officio members:

(1) The Lieutenant Governor;
(2) The Secretary of the Department of Transportation;
(3) The Secretary of the Department of Commerce; and
(4) The Secretary of the Department of Environment and Natural Resources.

The remaining members shall be appointed as follows:

(1) Four representatives from the North Carolina League of Municipalities who have knowledge about issues of urban growth management and development, two of whom shall be appointed by the President Pro Tempore of the Senate and two of whom shall be appointed by the Speaker of the House of Representatives;
(2) Four representatives from the North Carolina Association of County Commissioners, two of whom shall be appointed by the President Pro Tempore of the Senate and two of whom shall be appointed by the Speaker of the House of Representatives;
(3) Three representatives from environmental advocacy groups appointed by the Governor, one of whom has expertise in statewide issues of water quality, air quality, and urban development and two of whom have expertise in regional environmental issues;

(4) One representative from the North Carolina Chapter of the American Planning Association, appointed by the Governor;
(5) One representative from the North Carolina Home Builders Association, appointed by the Governor;
(6) One representative from the Mortgage Bankers Association, appointed by the Speaker of the House of Representatives;
(7) One representative who is a residential or commercial developer, appointed by the President Pro Tempore of the Senate;
(8) One representative from North Carolina Citizens for Business and Industry, appointed by the Governor;
(9) One representative from the North Carolina Farm Bureau Federation, Inc., appointed by the Governor;
(10) One representative from the American Lung Association who is a resident of this State, appointed by the President Pro Tempore of the Senate;
(11) A physician from a medical school in this State knowledg1eable in the diagnosis and treatment of respiratory illness, appointed by the Speaker of the House of Representatives;
(12) One representative from the North Carolina Chapter of the American Institute of Architects with expertise in traditional neighborhood development, appointed by the Governor;
(13) One representative from the North Carolina Chapter of the American Society of Landscape Architects, appointed by the Governor;
(14) One representative from the North Carolina Association of Realtors, appointed by the Governor;
(15) Three representatives from lead regional organizations who have experience with regional planning, one of whom is appointed by the President Pro Tempore of the Senate, one of whom is appointed by the Speaker of the House of Representatives, and one of whom is appointed by the Governor;
(16) One representative from the North Carolina Travel and Tourism Board who has expertise in rural, nature-based tourism, appointed by the Speaker of the House of Representatives;
(17) One representative from the Rural Economic Development Center, appointed by the President Pro Tempore of the Senate;
(18) One public member, appointed by the President Pro Tempore of the Senate;
(19) One public member, appointed by the Speaker of the House of Representatives; and
(20) Four members of the Senate appointed by the President Pro Tempore of the Senate and four members of the House of

Representatives appointed by the Speaker of the House of Representatives.

Appointments to the Commission shall be made not later than September 1, 1999. A vacancy in the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made.

Section 16.7.(d) Duties of Commission. -- The Commission shall study growth, growth management, and development issues and recommend initiatives to promote comprehensive and coordinated local, regional, and State planning, and growth management to:

(1) Preserve natural and cultural resources;
(2) Promote smarter infrastructure and transportation planning;
(3) Foster more balanced economic development in rural and urban areas;
(4) Foster compatible land-use patterns;
(5) Preserve and improve air quality in this State;
(6) Protect housing affordability and assure consumer choice; and
(7) Enhance the quality of life for the citizens of North Carolina.

Section 16.7.(e) Further Study Issues. -- The Commission may address all issues deemed necessary to implement coordinated planning and growth but shall study and evaluate in particular:

(1) The legislation proposed by House Bill 1468, 1999 Regular Session, and legislation in other states regarding smart growth and growth management, including Maryland's Smart Growth and Neighborhood Conservation Act of 1997, Tennessee's Public Law 1101 of 1998, and further including similar legislation enacted in New Jersey and Washington.
(2) The present and projected effects of population growth and urban development on the capacity of the State's infrastructure, environment, and economy, particularly those resulting from land use and transportation in the high growth and urbanized metropolitan regions.
(3) Options and/or guidelines for long-term, strategic planning for the efficient growth of urban, rural, retirement, and resort areas of the State, including land-use management and the transfer of development rights.
(4) Incentives to encourage local governments to develop and implement sound land-use management practices.
(5) Planning and growth management goals and processes, including urban growth planning directed toward existing infrastructure and regionally significant infrastructure, and with appropriate attention to regionally significant environmentally sensitive lands.
(6) The relationship and consistency between local and regional land use, infrastructure, preservation of high-quality farmland, and natural resource/open space plans ensured by

a cross-acceptance process in which local, State, and regional representatives reach consensus about areas designated for urbanization, provision of regionally significant infrastructure, and protection of regionally significant environmentally sensitive lands.

(7) Funding requirements for implementation of comprehensive planning and alternative means for meeting those requirements, including consideration of appropriate State, regional, and local responsibilities, to include procedures for directing State expenditures within the metropolitan regions for infrastructure to the region's locally designated and regionally conformed urban growth areas and targeting the expenditure of environmental protection funds to designated environmentally sensitive lands and significant rural lands.

(8) Development of recommendations for funding sources for regional infrastructure, land acquisition needs, and assistance to local government for implementing plans.

(9) Incentives to promote the continued use of farmlands for agriculture and the maintenance of the agricultural economy.

Section 16.7.(f) Consultation. -- The Commission shall consult with appropriate State departments, agencies, and board representatives on issues related to transportation, economic development, education infrastructure, technology, natural resource conservation and management, affordable housing, and neighborhood awareness issues.

Section 16.7.(g) Report. -- The Commission shall submit an interim report to the 2000 Regular Session of the 1999 General Assembly and shall submit a final report of its findings and recommendations by January 15, 2001, to the General Assembly, the Governor, and the citizens of the State. The report may include recommendations to (i) enact and implement a program of comprehensive planning, supportive infrastructure development, and growth management and (ii) address the issue of continued oversight of growth and development in the State, including whether a permanent commission should be established. The Commission shall terminate upon filing its final report.

Section 16.7.(h) Expenses of Members. -- Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

Section 16.7.(i) Chair; Meetings. -- The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as cochair of the Commission.

The Lieutenant Governor shall call the initial meeting of the Commission on or before October 1, 1999. The Commission shall subsequently meet upon such notice and in such manner as its members determine. A majority of the members of the Commission shall constitute a quorum.

Section 16.7.(j) Subcommittees. -- The Commission may appoint subcommittees of its members and other knowledgeable persons or experts to assist it, including persons with expertise in traditional architectural neighborhood development, in rural, nature-based tourism, and in regional planning. It may also appoint a Technical Advisory Board, if deemed desirable by its members to have an ongoing body of technical experts.

Section 16.7.(k) Citizen Participation. -- The Commission shall establish a process of citizen participation that assures the citizens of North Carolina of the opportunity to be informed of and contribute to the work of the Commission. It shall hold meetings throughout the State.

Section 16.7.(l) Cooperation by Government Agencies. -- The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

Section 16.7.(m) Funding. -- The Commission may apply for, receive, and accept grants of non-State funds, or other contributions as appropriate to assist in the performance of its duties.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Perdue, Plyler, Odom

MARKETING OF GLOBAL TRANSPARK

Section 16.8.(a) Section 15.2 of S.L. 1998-212 is repealed.

Section 16.8.(b) Of the funds appropriated in this act to the Department of Commerce, the sum of one hundred seventy-two thousand thirty-six dollars ($172,036) for the 1999-2000 fiscal year and the sum of one hundred seventy-two thousand thirty-six dollars ($172,036) for the 2000-2001 fiscal year shall be transferred to the Global TransPark Authority to market the Global TransPark.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

PETROLEUM OVERCHARGE ATTORNEYS' FEES

Section 16.9.(a) Unless prohibited by federal law, rule, or regulation, or preexisting settlement agreement, no later than October 1, 1989, the North Carolina Attorney General shall direct the withdrawal of all funds received in the cases of United States v. Exxon and Stripper Well that are held in accounts or reserves located out-of-state for payment of attorneys' fees and reasonable expenses incurred in connection with oil overcharge litigation authorized by the Attorney General. The Attorney General shall deposit these funds, and all funds to be received from Petroleum Overcharge Funds in the future for attorneys' fees and reasonable expenses, into the Special Reserve for Oil Overcharge Funds.

Section 16.9.(b) All attorneys' fees and reasonable expenses incurred in connection with oil overcharge litigation shall be paid by the State Treasurer from Petroleum Overcharge Funds that have been

received by this State and deposited into the Special Reserve for Oil Overcharge Funds.

Section 16.9.(c) Notwithstanding any other provision of law, the Attorney General may authorize the payment of attorneys' fees and reasonable expenses from the Special Reserve for Oil Overcharge Funds without further action of the General Assembly, and funds are hereby appropriated from the Special Reserve for Oil Overcharge Funds for the 1999-2000 fiscal year and for the 2000-2001 fiscal year for that purpose.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

AUTHORIZATION TO REALLOCATE PREVIOUSLY APPROPRIATED PETROLEUM OVERCHARGE FUNDS

Section 16.9A. Funds previously appropriated to the Department of Commerce from the case of United States v. Exxon and from the United States Department of Energy's Stripper Well Litigation for projects under the State Energy Conservation Plan, the Energy Extension Service Program, or the Institutional Conservation Program may be reallocated by the Department of Commerce to be used for projects under the State Energy Efficiency Programs.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

PETROLEUM OVERCHARGE FUNDS ALLOCATION

Section 16.10.(a) Any funds remaining in the Special Reserve for Oil Overcharge Funds on and after June 30, 1999, may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve Oil Overcharge Funds.

Section 16.10.(b) The Department of Commerce shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. A description of program activities, objectives, and accomplishments supported with petroleum overcharge funds for the State fiscal year 1998-99;

b. An itemized list of the actual expenditures from each of the petroleum overcharge accounts for each of the activities supported with petroleum overcharge funds for the State fiscal year 1998-99, including any expenditures for administrative costs;

c. A list of the cash balances remaining in each of the petroleum overcharge accounts at the end of the State fiscal year 1998-99, including the amount of funds which are obligated; and

d. A description of planned activities, objectives, and accomplishments, including the amount of petroleum overcharge funds budgeted for each activity for State fiscal year 1999-2000.

(2) By January 15, 2001, and more frequently if requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. A description of program activities, objectives, and accomplishments supported with petroleum overcharge funds for the State fiscal year 1999-2000;

b. An itemized list of the actual expenditures from each of the petroleum overcharge accounts for each of the activities supported with petroleum overcharge funds for the State fiscal year 1999-2000, including any expenditures for administrative costs;

c. A list of the cash balances remaining in each of the petroleum overcharge accounts at the end of the State fiscal year 1999-2000, including the amount of funds which are obligated; and

d. A description of planned activities, objectives, and accomplishments, including the amount of petroleum overcharge funds budgeted for each activity for State fiscal year 2000-2001.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

NER INTERIM STUDY OF ENERGY DIVISION OF DEPARTMENT OF COMMERCE

Section 16.11. During the interim between the Session of the 1999 General Assembly and the 2000 Regular Session of the 1999 General Assembly, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources shall study the current organization and responsibilities of the Division of Energy of the Department of Commerce to determine its effectiveness and efficiency in managing the State's energy programs and administering Petroleum Overcharge funds, and shall report any recommendations, including legislative proposals, to the 2000 Regular Session of the 1999 General Assembly no later than May 1, 2000. In conducting the study the committees may obtain assistance from any resources outside the General Assembly that the committees determine are needed to adequately perform the study.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

SPECIAL EMPLOYMENT SECURITY ADMINISTRATION FUND

Section 16.12.(a) Notwithstanding G.S. 96-5(c), there is appropriated from the Special Employment Security Administration

Fund to the Employment Security Commission of North Carolina, the sum of two million dollars ($2,000,000) for the 1999-2000 fiscal year and the sum of two million dollars ($2,000,000) for the 2000-2001 fiscal year for administration of the Employment Services and Unemployment Insurance Programs.

Section 16.12.(b) Supplemental federal funds or other additional funds received by the Employment Security Commission for similar purposes shall be expended prior to the expenditure of funds appropriated by this section.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

AUTHORIZATION TO EXPEND REED ACT FUNDS

Section 16.13. Of the funds credited to and held in this State's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act, the Employment Security Commission of North Carolina may expend the sum of five hundred twenty-five thousand one hundred twenty-three dollars ($525,123) for the 1999-2000 fiscal year for automation purposes.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

WORKER TRAINING TRUST FUND APPROPRIATIONS

Section 16.14.(a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of six million two hundred ninety-six thousand seven hundred forty dollars ($6,296,740) for the 1999-2000 fiscal year for the operation of local offices and the sum of six million two hundred ninety-six thousand seven hundred forty dollars ($6,296,740) for the 2000-2001 fiscal year for the operation of local offices.

Section 16.14.(b) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 1999-2000 and the 2000-2001 fiscal years for the following purposes:

(1) $2,400,000 for the 1999-2000 fiscal year and $2,400,000 for the 2000-2001 fiscal year to the Department of Commerce, Division of Employment and Training, for the Employment and Training Grant Program;

(2) $1,000,000 for the 1999-2000 fiscal year and $1,000,000 for the 2000-2001 fiscal year to the Department of Labor for customized training of the unemployed and the working poor for specific jobs needed by employers through the Department's Bureau for Training Initiatives;

(3) $2,046,000 for the 1999-2000 fiscal year and $1,746,000 for the 2000-2001 fiscal year to the Department of Community Colleges to continue the Focused Industrial Training Program;

(4) $225,000 for the 1999-2000 fiscal year and $225,000 for the 2000-2001 fiscal year to the Employment Security Commission for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;

(5) $400,000 for the 1999-2000 fiscal year and $400,000 for the 2000-2001 fiscal year to the Department of Community Colleges for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises;

(6) $60,000 for the 1999-2000 fiscal year and $60,000 for the 2000-2001 fiscal year to the Office of State Budget and Management to maintain compliance with Chapter 96 of the General Statutes, which directs the Office of State Budget and Management to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs; and

(7) $1,000,000 for the 1999-2000 fiscal year and $1,000,000 for the 2000-2001 fiscal year to the Department of Labor to expand the Apprenticeship Program. It is intended that the appropriation of funds in this subdivision will result in the Department of Labor serving a benchmark performance level of 10,000 adult and youth apprentices by the year 2000 and maintained or improved thereafter.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

WORKFORCE DEVELOPMENT COMMISSION

Section 16.15.(a) Part 3A of Article 10 of Chapter 143B of the General Statutes is repealed.

Section 16.15.(b) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 3B. Workforce Development.

"*§ 143B-438.10. Commission on Workforce Development.*

(a) Creation and Duties. -- There is created within the Department of Commerce the North Carolina Commission on Workforce Development. The Commission shall have the following powers and duties:

(1) To develop strategies to produce a skilled, competitive workforce that meets the needs of the State's changing economy.

(2) To advise the Governor, the General Assembly, State and local agencies, and the business sector regarding policies and programs to enhance the State's workforce.

(3) To coordinate and develop strategies for cooperation between the academic, governmental, and business sectors.

(4) To establish, develop, and provide ongoing oversight of the 'One-Stop Delivery System' for employment and training services in the State.

(5) To develop a unified State plan for workforce training and development.

(6) To review the plans and programs of agencies, boards, and organizations operating federally funded or State-funded workforce development programs for effectiveness, duplication, fiscal accountability, and coordination.

(7) To develop and continuously improve performance measures to assess the effectiveness of workforce training and employment in the State.

(8) To submit to the Governor and to the General Assembly by April 1, 2000, and biennially thereafter, a comprehensive Workforce Development Plan that shall include at least the following:

a. Goals and objectives for the biennium.

b. An assessment of current workforce programs and policies.

c. An assessment of the delivery of employment and training services to special populations, such as youth and dislocated workers.

d. Recommendations for policy, program, or funding changes.

(9) To serve as the State's Workforce Investment Board for purposes of the federal Workforce Investment Act of 1998.

(b) Membership; Terms. -- The Commission on Workforce Development shall consist of 38 members appointed as follows:

(1) By virtue of their offices, the following department and agency heads or their respective designees shall serve on the Commission: the Secretary of the Department of Health and Human Services, the Chair of the Employment Security Commission, the Superintendent of Public Instruction, the President of the Community Colleges System Office, the Commissioner of the Department of Labor, and the Secretary of the Department of Commerce.

(2) The Governor shall appoint 32 members as follows:

a. Six members representing public, postsecondary, and vocational education.

b. Two members representing community-based organizations.

c. Six members representing labor.

d. Eighteen members representing business and industry.

(3) The terms of the members appointed by the Governor shall be for four years.

(c) Appointment of Chair; Meetings. -- The Governor shall appoint the Chair of the Commission from among the business and industry members, and that person shall serve at the pleasure of the Governor.

The Commission shall meet at least quarterly upon the call of the Chair.

(d) Staff; Funding. -- The clerical and professional staff to the Commission shall be provided by the Department of Commerce. Funding for the Commission shall derive from State and federal resources as allowable and from the partner agencies to the Commission. Members of the Commission shall receive necessary travel and subsistence in accordance with State law.

"*§ 143B-438.11. Local Workforce Development Boards.*

(a) Duties. -- Local Workforce Development Boards shall have the following powers and duties:

(1) To develop policy and act as the governing body for local workforce development.

(2) To provide planning, oversight, and evaluation of local workforce development programs, including the local One-Stop Delivery System.

(3) To provide advice regarding workforce policy and programs to local elected officials, employers, education and employment training agencies, and citizens.

(4) To develop a local plan in coordination with the appropriate community partners to address the workforce development needs of the service area.

(5) To develop linkages with economic development efforts and activities in the service area and promote cooperation and coordination among public organizations, education agencies, and private businesses.

(6) To review local agency plans and grant applications for workforce development programs for coordination and achievement of local goals and needs.

(7) To serve as the Workforce Investment Board for the designated substate area for the purpose of the federal Workforce Investment Act of 1998.

(b) Members. -- Members of local Workforce Development Boards shall be appointed by local elected officials in accordance with criteria established by the Governor and with provisions of the federal Workforce Investment Act. The local Workforce Development Boards shall have a majority of business members and shall also include representation of workforce and education providers, labor organizations, community-based organizations, and economic development boards as determined by local elected officials. The Chairs of the local Workforce Development Boards shall be selected from among the business members.

"*§ 143B-438.12. Federal Program Administration.*

(a) Federal Workforce Investment Act. -- In accordance with the federal Workforce Investment Act, the Commission on Workforce Development shall develop a Five-Year Strategic Plan to be submitted to the U.S. Secretary of Labor. The Strategic Plan shall describe the workforce development activities to be undertaken in the State to

implement the federal Workforce Investment Act and how special populations shall be served.

(b) Other Workforce Grant Applications. -- The Commission on Workforce Development may submit grant applications for workforce development initiatives and may manage the initiatives and demonstration projects.

"*§ 143B-438.13. Employment and Training Grant Program.*

(a) Employment and Training Grant Program. -- There is established in the Department of Commerce, Division of Employment and Training, an Employment and Training Grant Program. Grant funds shall be allocated to local Workforce Development Boards for the purposes of enabling recipient agencies to implement local employment and training programs in accordance with existing resources, local needs, local goals, and selected training occupations. The State program of workforce performance standards shall be used to measure grant program outcomes.

(b) Use of Grant Funds. -- Local agencies may use funds received under this section for the purpose of providing services, such as training, education, placement, and supportive services. Local agencies may use grant funds to provide services only to individuals who are (i) 18 years of age or older and meet the federal Workforce Investment Act, title I adult eligibility definitions, or meet the federal Workforce Investment Act, title I dislocated worker eligibility definitions, or (ii) incumbent workers with annual family incomes at or below two hundred percent (200%) of poverty guidelines established by the federal Department of Health and Human Services.

(c) Allocation of Grants. -- The Department of Commerce may reserve and allocate up to ten percent (10%) of the funds available to the Employment and Training Grant Program for State and local administrative costs to implement the Program. The Division of Employment and Training shall allocate employment and training grant funds to local Workforce Development Boards serving federal Workforce Investment Act local workforce investment areas based on the following formula:

(1) One-half of the funds shall be allocated on the basis of the relative share of the local workforce investment area's share of federal Workforce Investment Act, title I adult funds as compared to the total of all local areas adult shares under the federal Workforce Investment Act, title I.

(2) One-half of the funds shall be allocated on the basis of the relative share of the local workforce investment area's share of federal Workforce Investment Act, title I dislocated worker funds as compared to the total of all local areas dislocated worker shares under the federal Workforce Investment Act, title I.

(3) Local workforce investment area adult and dislocated shares shall be calculated using the current year's allocations to local areas under the federal Workforce Investment Act, title I.

(d) Reports and Coordination. -- The Department of Commerce shall report quarterly to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on the North Carolina Employment and Training Grant Program. The Department shall also provide a copy of these quarterly reports to the North Carolina Commission on Workforce Development.

(e) Nonreverting Funds. -- Funds appropriated to the Department of Commerce for the Employment and Training Grant Program that are not expended at the end of the fiscal year shall not revert to the General Fund, but shall remain available to the Department for the purposes established in this section."

Section 16.15.(c) The Commission on Workforce Preparedness appointed in accordance with Executive Order #4 of March 10, 1993, shall continue to serve as the State's Commission on Workforce Development until January 1, 2001, or until appointments to the North Carolina Commission on Workforce Development created by this section are made consistent with the provisions of G.S. 143B-438.10, whichever comes first.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Perdue, Plyler, Odom

TOURISM PROMOTION FUNDS

Section 16.16. Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated according to per capita income, unemployment, and population growth in an effort to direct funds to counties most in need in terms of lowest per capita income, highest unemployment, and slowest population growth, in the following manner:

(1) Counties 1 through 20 are each eligible to receive a maximum grant of seven thousand five hundred dollars ($7,500) for each fiscal year, provided these funds are matched on the basis of one non-State dollar ($1.00) for every four State dollars ($4.00).

(2) Counties 21 through 50 are each eligible to receive a maximum grant of three thousand five hundred dollars ($3,500) for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar ($1.00) for every three State dollars ($3.00).

(3) Counties 51 through 100 are each eligible to receive a maximum grant of three thousand five hundred dollars ($3,500) for alternating fiscal years, beginning with the 1991-92 fiscal year, provided these funds are matched on the basis of four non-State dollars ($4.00) for every State dollar ($1.00).

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Perdue, Plyler, Odom

RURAL TOURISM DEVELOPMENT FUNDS

Section 16.17. Of the funds appropriated in this act to the Department of Commerce for the 1999-2000 fiscal year, the sum of three hundred thousand dollars ($300,000) shall be used for the Rural Tourism Development Grant Program. The Department shall establish and implement this Program to provide grants to local governments and nonprofit organizations to encourage the development of new tourism projects and activities in rural areas of the State. The Department shall develop procedures for the administration and distribution of funds allocated to the Rural Tourism Development Program under the following guidelines:

(1) Eligible organizations shall make application under procedures established by the Department;
(2) Eligible organizations shall be nonprofit tourism-related organizations located in the State's rural regions;
(3) Priority shall be given to eligible organizations that have significant involvement of travel and tourism-related businesses;
(4) Priority shall be given to eligible organizations serving economically distressed rural counties;
(5) Priority shall be given to eligible organizations that match funds; and
(6) Funds shall not be used for renting or purchasing land or buildings, or for financing debt.

No recipient or new tourism project shall receive a total of more than fifty thousand dollars ($50,000) of these grant funds for the 1999-2000 fiscal year.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

CREDIT ENHANCEMENT FOR TOURISM DEVELOPMENT PROJECTS

Section 16.18.(a) The Department of State Treasurer and the Department of Commerce shall jointly develop legislative proposals for credit enhancement for tourism development projects in rural counties of the State. The credit enhancement may be in the form of State revenue bonds, other State debt, State loan guarantees, or other mechanisms. The proposals shall be designed to provide incentives for tourism development that would be similar or comparable to existing tax-exempt, industrial revenue bonds available for manufacturing projects. In developing the proposals, the two Departments shall examine credit enhancement mechanisms employed in other states.

Section 16.18.(b) The two Departments shall jointly report their findings and recommendations to the Joint Legislative Commission on Governmental Operations by May 1, 2000. Each legislative proposal shall be accompanied by draft legislation and by a fiscal estimate of its cost to the General Fund.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

HERITAGE TOURISM FUNDS

Section 16.19.(a) Of the funds remaining in the General Fund operating budget of the Department of Commerce as of June 30, 1999, the sum of one hundred thirty-nine thousand two hundred thirty-three dollars ($139,233) shall not revert and shall be reallocated by the Department to the following Heritage Tourism locations:

(1)	Newbold-White House	$ 40,138.
(2)	Hope Plantation	30,249.
(3)	Historic Murfreesboro	29,624.
(4)	Smoky Mountain Host	39,222.

Section 16.19.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

CENTER FOR ENTREPRENEURSHIP AND TECHNOLOGY REPORT

Section 16.20. The Center for Entrepreneurship and Technology, a Division of the Department of Commerce, shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
   b. State fiscal year 1998-99 itemized expenditures and fund sources;
   c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and
   d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999; and

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000; and

d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

NC REAL ENTERPRISES REPORTING

Section 16.21. NC REAL Enterprises shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
   b. State fiscal year 1998-99 itemized expenditures and fund sources;
   c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and
   d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments, including actual results through December 31, 2000; and
   d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2000; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

BIOTECHNOLOGY CENTER

Section 16.22.(a) The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

Section 16.22.(b) The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

Section 16.22.(c) The North Carolina Biotechnology Center shall:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
   b. State fiscal year 1998-99 itemized expenditures and fund sources;
   c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and
   d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000; and
   d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Section 16.22.(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Dannelly, Jordan, Lee, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

BIOTECHNOLOGY FUNDS FOR MINORITY UNIVERSITIES

Section 16.23. Of the funds appropriated in this act from the General Fund to the North Carolina Biotechnology Center, the sum of one million dollars ($1,000,000) for the 1999-2000 fiscal year and the sum of one million dollars ($1,000,000) for the 2000-2001 fiscal year shall be used to continue the special biotechnology program initiative for North Carolina's Public Historically Black Colleges and Universities and the University of North Carolina at Pembroke. This program initiative is a means to get more funds to these institutions of higher education in the short run to help them develop their biotechnology programs and a means to develop a mechanism to improve these institutions' capacity over the long term. The Center's special initiative shall, at a minimum, provide for:

(1) A range of program activities, including grants, designed to enhance the existing strengths and capabilities of the University of North Carolina at Pembroke and North Carolina's Public Historically Black Colleges and Universities;

(2) A Facilities and Infrastructure Review Committee to advise the Center on major program elements and priority projects that would be most helpful to these institutions; and

(3) A Program Advisory Panel with representation from these institutions to advise and make recommendations to the Center's President and Board of Directors on funding proposals under this initiative.

The Center shall report on its biotechnology program grants to universities to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on or before March 1 of each fiscal year, and more frequently as requested by the Commission. These reports shall include the current number of enrollments and the capacity of enrollments in the biotechnology program in each of the universities, the number of faculty in the biotechnology program in each of the universities, whether and to what extent the enrollments, capacity, and number of faculty have changed in the last three academic years in the biotechnology program in each of the universities, how the funds allocated by this section are being used in each of the universities, and any other information that indicates whether these grants are accomplishing their purpose.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

TECHNOLOGICAL DEVELOPMENT AUTHORITY REPORT

Section 16.24. The Technological Development Authority, Inc., shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
b. State fiscal year 1998-99 itemized expenditures and fund sources;
c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and
d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999; and

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

FUNDS FOR TECHNOLOGICAL DEVELOPMENT AUTHORITY, INC., WET LAB AND OFFICE CONSTRUCTION DO NOT REVERT

Section 16.25.(a) Funds in the amount of five hundred thousand dollars ($500,000) appropriated in S.L. 1998-212 for the 1998-99 fiscal year to the Department of Commerce and held in a reserve pursuant to Section 15.9 of S.L. 1998-212 for the North Carolina Technological Development Authority, Inc., shall not revert on June 30, 1999. The use of these funds is not limited to construction of wet lab space and additional office space at the First Flight Venture Center. These funds may be used to cover part of the cost of constructing wet lab space and office space or for entrepreneurial support and infrastructure elsewhere in the State.

Section 16.25.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

INDUSTRIAL DEVELOPMENT FUND/LOCAL MATCH

Section 16.26. Local governments requesting financial assistance from the Industrial Development Fund shall demonstrate to the satisfaction of the Department of Commerce that it would be an economic hardship for the local government to match State assistance from the Fund with local funds. The Department shall develop guidelines for determining hardship.

Requested by: Representatives Hardaway, Fox, Owens, Easterling, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

COUNCIL OF GOVERNMENT FUNDS

Section 16.27.(a) Of the funds appropriated in this act to the Department of Commerce, nine hundred ninety thousand dollars ($990,000) for the 1999-2000 fiscal year and nine hundred ninety

thousand dollars ($990,000) for the 2000-2001 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to fifty-five thousand dollars ($55,000) for each fiscal year, with the actual amount calculated as provided in subsection (b) of this section.

Section 16.27.(b) The funds shall be allocated as follows: A share of the maximum fifty-five thousand dollars ($55,000) each fiscal year shall be allocated to each county and smaller city based on the most recent annual estimate of the Office of State Planning of the population of that county (less the population of any larger city within that county) or smaller city, divided by the sum of the total population of the region (less the population of larger cities within that region) and the total population of the region living in smaller cities. Those funds shall be paid to the regional council of government for the region in which that city or county is located upon receipt by the Department of Commerce of a resolution of the governing board of the county or city requesting release of the funds. If any city or county does not so request payment of funds by June 30 of a State fiscal year, that share of the allocation for that fiscal year shall revert to the General Fund.

Section 16.27.(c) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

Section 16.27.(d) Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

Section 16.27.(e) As used in this section, "Larger City" means an incorporated city with a population of 50,000 or over. "Smaller City" means any other incorporated city.

Section 16.27.(f) Each council of government or lead regional organization shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
   b. State fiscal year 1998-99 itemized expenditures and fund sources;
   c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments, including actual results through December 31, 1999; and
   d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments, including actual results through December 31, 2000; and
   d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2000; and
(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Metcalf, Carter, Plyler, Perdue, Odom

WNC REVITALIZATION/PLANNING FUNDS

Section 16.27A.(a) Of the funds appropriated in this act to the Department of Commerce, the sum of one hundred thousand dollars ($100,000) for the 1999-2000 fiscal year shall be used to enhance economic development in Western North Carolina through the Small Town Revitalization and County Planning Program. The Department shall establish and implement this Program to encourage small municipalities and county governments to work locally with small business, industry, tourism, and other community organizations to develop collaborative programs focusing on strategies that will lead to the revitalization of downtown areas and efforts by counties to assess and plan for infrastructure and growth needs into and beyond the year 2000.

Section 16.27A.(b) Not less than fifteen percent (15%) of the total funds for the Small Town Revitalization and County Planning Program shall be used for small towns.

Section 16.27A.(c) The Department shall develop procedures for the administration and distribution of funds allocated to the Small Town Revitalization and County Planning Program under the following guidelines:

(1) Municipalities and counties must make application under procedures established by the Department.
(2) Priority shall be given to small municipalities needing assistance with downtown revitalization efforts.
(3) Priority shall be given to counties either with no organized planning effort or with only fledgling programs.

(4) Priority shall be given to municipalities and counties that demonstrate a strong willingness to involve the business, industry, and tourism community in their proposed plan of work.

(5) Priority shall be given to counties and municipalities that match funds.

(6) Priority shall be given to counties and municipalities that demonstrate high need according to Department of Commerce statistics and data.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

WORLD TRADE CENTER NORTH CAROLINA REPORT

Section 16.28. World Trade Center North Carolina shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1998-99 program activities, objectives, and accomplishments;

b. State fiscal year 1998-99 itemized expenditures and fund sources;

c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and

d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999; and

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Dannelly, Jordan, Lee, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

N.C. INSTITUTE FOR MINORITY ECONOMIC DEVELOPMENT, INC., REPORT

Section 16.29. The N.C. Institute for Minority Economic Development, Inc., shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1998-99 program activities, objectives, and accomplishments;

b. State fiscal year 1998-99 itemized expenditures and fund sources;
c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and
d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
b. State fiscal year 1999-2000 itemized expenditures and fund sources;
c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000; and
d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Dannelly, Jordan, Lee, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

THE LAND LOSS PREVENTION PROJECT REPORT

Section 16.30. The Land Loss Prevention Project shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
b. State fiscal year 1998-99 itemized expenditures and fund sources;
c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and
d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual

expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;

b. State fiscal year 1999-2000 itemized expenditures and fund sources;

c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000; and

d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Dannelly, Jordan, Lee, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

NORTH CAROLINA COALITION OF FARM AND RURAL FAMILIES, INC., REPORT

Section 16.31. The North Carolina Coalition of Farm and Rural Families, Inc., shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1998-99 program activities, objectives, and accomplishments;

b. State fiscal year 1998-99 itemized expenditures and fund sources;

c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and

d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
b. State fiscal year 1999-2000 itemized expenditures and fund sources;
c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000; and
d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Dannelly, Jordan, Lee, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

NORTH CAROLINA MINORITY SUPPORT CENTER REPORT

Section 16.32. The North Carolina Minority Support Center shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
b. State fiscal year 1998-99 itemized expenditures and fund sources;
c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and
d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
b. State fiscal year 1999-2000 itemized expenditures and fund sources;
c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000; and

d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Dannelly, Jordan, Lee, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

NORTH CAROLINA COMMUNITY DEVELOPMENT INITIATIVE, INC., REPORT

Section 16.33. The North Carolina Community Development Initiative, Inc., shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1998-99 program activities, objectives, and accomplishments;

b. State fiscal year 1998-99 itemized expenditures and fund sources;

c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments, including actual results through December 31, 1999; and

d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;

b. State fiscal year 1999-2000 itemized expenditures and fund sources;

c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments, including actual results through December 31, 2000; and

d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2000; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Dannelly, Jordan, Lee, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

NORTH CAROLINA ASSOCIATION OF COMMUNITY DEVELOPMENT CORPORATIONS, INC., REPORT

Section 16.34. The North Carolina Association of Community Development Corporations, Inc., shall do the following:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
   b. State fiscal year 1998-99 itemized expenditures and fund sources;
   c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments, including actual results through December 31, 1999; and
   d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 1999;

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments, including actual results through December 31, 2000; and
   d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2000; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Ballance, Dannelly, Jordan, Lee, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

RURAL ECONOMIC DEVELOPMENT CENTER

Section 16.35.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million

four hundred seventy thousand dollars ($1,470,000) for the 1999-2000 fiscal year and the sum of one million four hundred seventy thousand dollars ($1,470,000) for the 2000-2001 fiscal year shall be allocated as follows:

	1999-2000 FY	2000-2001 FY
Research and Demonstration Grants	$475,864	$475,864
Technical Assistance and Center Administration of Research and Demonstration Grants	444,136	444,136
Center Administration, Oversight, and Other Programs	350,000	350,000
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	200,000	200,000.

Section 16.35.(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

Section 16.35.(c) Not more than fifty percent (50%) of the interest earned on State funds appropriated to the Rural Economic Development Center, Inc., may be used by the Center for administrative purposes, including salaries and fringe benefits.

Section 16.35.(d) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;

(3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and

(5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

Section 16.35.(e) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five million four hundred thousand dollars ($5,400,000) for the 1999-2000 fiscal year and the sum of two million four hundred thousand dollars ($2,400,000) for the 2000-2001 fiscal year shall be allocated as follows:

(1) $1,200,000 in each fiscal year for community development grants to support development projects and activities within

the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

a. $900,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;
b. $250,000 in each fiscal year for direct grants to local community development corporations that have not previously received State funds; and
c. $50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.

(2) $250,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and

(3) $2,450,000 for the 1999-2000 fiscal year and $950,000 for the 2000-2001 fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subdivision. The Center shall use these funds to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:

a. Necessary economic development projects and activities in economically distressed areas;
b. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low pressure pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar- for-dollar basis in the amount of the grant awarded; or
c. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.

(4) $1,500,000 for the 1999-2000 fiscal year to the Capacity Building Assistance Program. Funds shall be used to pay all or a portion of the costs for providing technical and financial assistance to rural, low-wealth local government units and nonprofit corporations initiating needed water and

sewer projects that support the growth and development of rural areas.

The grant recipients in this subsection shall be selected on the basis of need.

Section 16.35.(f) The Rural Economic Development Center, Inc., shall:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
   b. State fiscal year 1998-99 itemized expenditures and fund sources;
   c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments including actual results through December 31, 1999; and
   d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1999.

(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000; and
   d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000.

(3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

Section 16.36.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of four hundred thousand dollars ($400,000) for the 1999-2000 fiscal year and the sum of four hundred thousand dollars ($400,000) for the 2000-2001 fiscal year shall be allocated as follows:

(1) $100,000 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;
(2) $100,000 in each fiscal year to Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
(3) $100,000 in each fiscal year to the Opportunities Industrialization Center of Lenoir, Greene, and Jones Counties; and
(4) $100,000 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc.

Section 16.36.(a1) Funds allocated by the Rural Economic Development Center, Inc., to the Pitt-Greenville Opportunities Industrialization Center, Inc., for the 1998-99 fiscal year that are unencumbered and unexpended on June 30, 1999, shall be reallocated in equal amounts to the Opportunities Industrialization Center of Wilson, Inc., and the Opportunities Industrialization Center, Inc., in Rocky Mount. These funds shall be in addition to funds allocated in subsection (a) of this section.

Section 16.36.(b) For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

(1) By January 15, 2000, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1998-99 program activities, objectives, and accomplishments;
   b. State fiscal year 1998-99 itemized expenditures and fund sources;
   c. State fiscal year 1999-2000 planned activities, objectives, and accomplishments, including actual results through December 31, 1999;
   d. State fiscal year 1999-2000 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 1999.
(2) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments, including actual results through December 31, 2000;

d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2000.

(3) Provide to the Fiscal Research Division a copy of the annual audited financial statements of the Opportunities Industrialization Centers funded by this act within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

OREGON INLET FUNDS/NONREVERT

Section 16.37.(a) Funds appropriated to the Department of Commerce for the 1998-99 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 1999, shall not revert to the General Fund on June 30, 1999, but shall remain available to the Department for legal costs associated with the Project.

Section 16.37.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Martin of Pitt, Plyler, Perdue, Odom

INFORMATION HIGHWAY EXPANSION REPORTING REQUIREMENT

Section 16.38. Prior to establishing new information highway sites in the 1999-2000 fiscal year, the Department of Commerce, SIPS, shall report to the Information Resource Management Commission and to the Joint Select Committee on Information Technology on the establishment of the new sites.

Requested by: Representatives Fox, Owens, Easterling, Hardaway, Redwine, Senators Perdue, Plyler, Odom

PORTS RAILWAY COMMISSION BUSINESS PLAN

Section 16.39. The North Carolina Ports Railway Commission shall, in consultation with the North Carolina State Ports Authority, develop a business plan designed to further its statutory duty to cooperate with the State Ports Authority pursuant to G.S. 143B-469.2. The plan shall be designed primarily to foster the efficient and effective operation of the State Ports Authority and promote the effective development of the State Ports by better serving the users of the State Ports who depend upon reliable rail service in conducting business at the Ports.

The Ports Railway Commission shall provide the business plan developed pursuant to this section to the Board of the State Ports Authority and the Joint Legislative Commission on Governmental Operations by October 1, 1999. The Commission shall report quarterly to the Board of the State Ports Authority and the Joint Legislative Commission on Governmental Operations beginning January 1, 2000, on its progress in implementing this business plan.

PART XVII. JUDICIAL DEPARTMENT

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

Section 17. Funds appropriated to the Judicial Department in the 1999-2001 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts shall have the authority to transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose. The Administrative Office of the Courts shall make quarterly reports on transfers made pursuant to this section to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

N.C. STATE BAR FUNDS

Section 17.1.(a) Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 1999-2001 fiscal biennium, the North Carolina State Bar may in its discretion use up to the sum of two hundred fifty thousand dollars ($250,000) for the 1999-2000 fiscal year and up to the sum of two hundred fifty thousand dollars ($250,000) for the 2000-2001 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.

Section 17.1.(b) Of the recurring funds appropriated in the expansion budget as a grant-in-aid to the North Carolina State Bar for the 1999-2001 fiscal biennium, the North Carolina State Bar may in its discretion use up to the sum of three hundred forty thousand dollars ($340,000) for the 1999-2000 fiscal year and up to the sum of three hundred forty thousand dollars ($340,000) for the 2000-2001 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.

Requested by: Representatives Nesbitt, Easterling, Hardaway, Redwine, Senators Jordan, Carter, Metcalf, Plyler, Perdue, Odom

PISGAH LEGAL SERVICES FUNDS

Section 17.1A. Notwithstanding the provisions of G.S. 7A-474.4, the North Carolina State Bar shall allocate to Pisgah Legal Services that share of State funds that would otherwise have been provided through Legal Services of North Carolina, Inc., to

Appalachian Legal Services to serve eligible clients in Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

INDIGENT PERSONS' ATTORNEY FEE FUND

Section 17.2.(a) Effective July 1, 1999, the Administrative Office of the Courts shall each year of the 1999-2001 biennium reserve funds for adult, juvenile, and guardian ad litem cases from the Indigent Persons' Attorney Fee Fund. These funds shall be allotted to each judicial district in which the superior and district courts are coterminous, and otherwise by county, according to the caseload of indigent persons who were not represented by the public defender in the districts or counties during 1998-99 and 1999-2000, respectively. The remaining available funds in the Indigent Persons' Attorney Fee Fund shall be budgeted for capital cases and for transcripts, professional examinations, expert witness fees, and other supporting services.

The Administrative Office of the Courts shall notify all senior resident superior court judges, all chief district court judges, and the clerk of superior court within the district or county immediately after the allotment is made and shall provide a monthly report on the status of the allotment for the district or county.

The senior resident superior court judge and the chief district court judge of each district or county shall ask all judges holding court within the district or county: (i) to take into consideration the amount of money allotted at the beginning of the fiscal year and the amount of money remaining in the allotment when they award counsel fees to attorneys of indigent persons, and (ii) to make an effort to award fees equally and justly for legal services provided. The clerk of superior court for each county shall ensure that all judges holding court within the county receive this request from the senior resident superior court judge and the chief district court judge.

Section 17.2.(b) If the funds allotted pursuant to subsection (a) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts shall allot any available funds from the reserve fund specified in subsection (a) or from unanticipated receipts. However, if necessary and appropriate due to unusual and unanticipated circumstances occurring in the current year, the Administrative Office of the Courts may allocate available funds to a district or county in a manner calculated to result in the reasonably fair distribution of remaining funds.

Section 17.2.(c) If funds allocated in subsections (a) and (b) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts shall allot available funds from the Public Defender program.

Section 17.2.(d) If the funds allotted pursuant to subsections (a), (b), and (c) of this section are depleted in a district or county

prior to the end of the fiscal year, the Administrative Office of the Courts is authorized to transfer funds between districts or counties only if the Administrative Office of the Courts determines that the funds transferred will not be needed to meet the obligations incurred by the Indigent Persons' Attorney Fee Fund for the county or district from which the funds are transferred for the fiscal year.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REPORT ON COMMUNITY MEDIATION CENTERS

Section 17.3.(a) All community mediation centers currently receiving State funds shall report annually to the Judicial Department on the program's funding and activities, including:

(1) Types of dispute settlement services provided;
(2) Clients receiving each type of dispute settlement service;
(3) Number and type of referrals received, cases actually mediated, cases resolved in mediation, and total clients served in the cases mediated;
(4) Total program funding and funding sources;
(5) Itemization of the use of funds, including operating expenses and personnel;
(6) Itemization of the use of State funds appropriated to the center;
(7) Level of volunteer activity; and
(8) Identification of future service demands and budget requirements.

The Judicial Department shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

Section 17.3.(b) A community mediation center requesting State funds for the first time shall provide the General Assembly with the information enumerated in subsection (a) of this section, or projections where historical data are not available, as well as a detailed statement justifying the need for State funding.

Section 17.3.(c) Each community mediation center receiving State funds for the first time shall document in the information provided pursuant to G.S. 7A-346.1 that, after the second year of receiving State funds, at least ten percent (10%) of total funding comes from non-State sources.

Section 17.3.(d) Each community mediation center receiving State funds for the third, fourth, or fifth year shall document that at least twenty percent (20%) of total funding comes from non-State sources.

Section 17.3.(e) Each community mediation center receiving State funds for six or more years shall document that at least fifty percent (50%) of total funding comes from non-State sources.

Section 17.3.(f) Each community mediation center currently receiving State funds that has achieved a funding level from non-State sources greater than that provided for that center by subsection (c), (d), or (e) of this section shall make a good faith effort to maintain that level of funding.

Section 17.3.(g) The percentage that State funds comprise of the total funding of each community mediation center shall be determined at the conclusion of each fiscal year with the information provided pursuant to G.S. 7A-346.1 and is intended as a funding ratio and not a matching funds requirement. Community mediation centers may include the market value of donated office space, utilities, and professional legal and accounting services in determining total funding.

Section 17.3.(h) A community mediation center having difficulty meeting the funding ratio provided for that center by subsection (c), (d), or (e) of this section may request a waiver or special consideration through the Administrative Office of the Courts for consideration by the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Section 17.3.(i) The provisions of G.S. 143-31.4 do not apply to community mediation centers receiving State funds.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Rand, Plyler, Purcell, Perdue, Odom

AUTHORIZE ADDITIONAL MAGISTRATES

Section 17.4. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.-Max.		Additional Seats of Court
Camden	1	~~2~~ 3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	3	
Martin	5	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	

Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	9	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	6	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	4	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	20	Apex, Wendell, Fuquay-Varina, Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson, Clayton, Selma
Lee	4	6	
Cumberland	10	~~18~~ 19	
Bladen	4	6	
Brunswick	4	8	
Columbus	6	9	Tabor City
Durham	8	13	
Alamance	7	10	Burlington
Orange	4	11	Chapel Hill
Chatham	3	8	Siler City
Scotland	3	5	
Hoke	4	5	

Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	26	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	6 7	
Anson	4	5	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	3	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	27	
Gaston	11	22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	5	
Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	

Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	4	
Macon	3	4	
Swain	2	3."	

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

ASSISTANT PUBLIC DEFENDERS

Section 17.5. From funds appropriated to the Indigent Persons' Attorney Fee Fund for the 1999-2001 biennium, the Administrative Office of the Courts may use up to one hundred sixty-one thousand four hundred forty-eight dollars ($161,448) for the 1999-2000 fiscal year and up to two hundred eighty-four thousand eight hundred forty dollars ($284,840) for salaries, benefits, equipment, and related expenses to establish up to four new assistant public defender positions.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Martin of Guilford, Hagan, Odom, Dannelly, Clodfelter, Soles, Plyler, Perdue

ADDITIONAL DISTRICT COURT JUDGES

Section 17.6.(a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	4	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	~~3~~ 4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	5	Pitt
3B	5	Craven
		Pamlico
		Carteret
4	7	Sampson
		Duplin

		Jones
		Onslow
5	~~6~~ 7	New Hanover
		Pender
6A	2	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	1	Warren
		(part of Vance see subsection (b))
10	13	Wake
11	7	Harnett
		Johnston
		Lee
12	9	Cumberland
13	~~5~~ 6	Bladen
		Brunswick
		Columbus
14	6	Durham
15A	~~3~~ 4	Alamance
15B	4	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	2	Rockingham
17B	3	Stokes
		Surry
18	~~11~~ 12	Guilford
19A	~~3~~ 4	Cabarrus
19B	6	Montgomery
		Moore
		Randolph
19C	4	Rowan
20	7	Stanly
		Union

		Anson
		Richmond
21	8	Forsyth
22	8	Alexander
		Davidson
		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	8	Burke
		Caldwell
		Catawba
26	~~15~~ 16	Mecklenburg
27A	~~5~~ 6	Gaston
27B	4	Cleveland
		Lincoln
28	5	Buncombe
29	6	Henderson
		McDowell
		Polk
		Rutherford
		Transylvania
30	4 5	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

Section 17.6.(b) Notwithstanding the provisions of G.S. 7A-142, the Governor shall appoint additional district court judges for District Court Districts 2, 5, 13, 15A, 18, 19A, 26, 27A, and 30 as authorized by subsection (a) of this section. Those judges' successors shall be elected in the 2002 election for four-year terms commencing on the first Monday in December 2002.

Section 17.6.(c) Subsection (a) of this section becomes effective January 1, 2000, as to any district in which no county is subject to section 5 of the Voting Rights Act of 1965. As to any district in which any county is subject to section 5 of the Voting Rights Act of 1965, subsection (a) becomes effective January 1, 2000, or 15 days after the date upon which that subsection is approved under section 5 of the Voting Rights Act of 1965, whichever is later.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

BAD CHECK PROGRAM

Section 17.7.(a) Subsection (e) of Section 18.22 of S.L. 1997-443, as amended by Section 16.3 of S.L. 1998-212, reads as rewritten:

"(e) This section becomes effective October 1, ~~1997, and expires June 30, 1999.~~ 1997."

Section 17.7.(b) Subsection (d) of Section 18.22 of S.L. 1997-443, as amended by Section 16.3 of S.L. 1998-212, reads as rewritten:

"(d) This act applies only to Brunswick, Bladen, Columbus, Durham, New Hanover, Pender, Rockingham, and Wake Counties."

Section 17.7.(c) The Administrative Office of the Courts shall report by April 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the implementation of the bad check collection programs in Columbus, Durham, Rockingham, and Wake Counties and the establishment of such programs in Bladen, Brunswick, New Hanover, and Pender Counties, including their effectiveness in assisting the recipients of worthless checks in obtaining restitution and the amount of time saved in prosecuting worthless check cases.

Section 17.7.(d) Subsection (a) of this section becomes effective June 30, 1999.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Purcell, Odom, Clodfelter, Dannelly, Rand, Soles, Reeves, Miller, Perdue

ADDITIONAL ASSISTANT DISTRICT ATTORNEYS

Section 17.8.(a) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	9
2	Beaufort, Hyde, Martin, Tyrrell, Washington	5
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	~~13~~ 14

6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	15
8	Greene, Lenoir, Wayne	11
9	Franklin, Granville, Vance, Warren	10
9A	Person, Caswell	4
10	Wake	~~28~~ 30
11	Harnett, Johnston, Lee	14
12	Cumberland	~~17~~ 18
13	Bladen, Brunswick, Columbus	~~9~~ 10
14	Durham	13
15A	Alamance	~~7~~ 8
15B	Orange, Chatham	7
16A	Scotland, Hoke	5
16B	Robeson	9
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	26
19A	Cabarrus	~~5~~ 6
19B	Montgomery, Moore, Randolph	11
19C	Rowan	5
20	Anson, Richmond, Stanly, Union	~~14~~ 15
21	Forsyth	17
22	Alexander, Davidson, Davie, Iredell	16
23	Alleghany, Ashe, Wilkes, Yadkin	5
24	Avery, Madison, Mitchell, Watauga, Yancey	4
25	Burke, Caldwell, Catawba	14
26	Mecklenburg	~~32~~ 33
27A	Gaston	12
27B	Cleveland, Lincoln	8
28	Buncombe	10
29	Henderson, McDowell, Polk, Rutherford, Transylvania	11
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	8

Section 17.8.(b) This section becomes effective January 1, 2000.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

INVESTIGATORIAL ASSISTANTS

Section 17.9. G.S. 7A-69 reads as rewritten:

"*§ 7A-69. Investigatorial assistants.*

The district attorney in prosecutorial districts 1, 3B, 4, 5, ~~6B,~~ 7, 8, ~~10,~~ 11, 12, 13, 14, 15A, 15B, 18, 19B, 20, 21, 22, 24, 25, 26, 27A, 27B, 28, 29, and 30 is entitled to one investigatorial ~~assistant~~ assistant, and the district attorney in prosecutorial district 10 is entitled to two investigatorial assistants, to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other Duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

DISTRICT COURT VACANCIES IN DISTRICTS 9 AND 9B

Section 17.10. G.S. 7A-142 reads as rewritten:

"*§ 7A-142. Vacancies in office.*

A vacancy in the office of district judge shall be filled for the unexpired term by appointment of the Governor from nominations submitted by the bar of the judicial district as defined in ~~G.S. 84-19.~~ G.S. 84-19, except that in judicial District 9, when vacancies occur in District Court District 9 or 9B, only those members who reside in the district court district shall participate in the selection of the nominees. If the district court district is comprised of counties in more than one judicial district, the nominees shall be submitted jointly by the bars of those judicial districts, but only those members who reside in the district court district shall participate in the selection of the nominees. If the district court judge was elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. Within 60 days after the district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the Governor fails to appoint a district bar nominee within 60 days, then the district bar nominee who received the highest number of votes from the district bar shall fill the vacancy. If the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

EXTEND INDIGENT FUND STUDY COMMISSION/STUDY PUBLIC DEFENDER PROGRAMS

Section 17.11. Subsection (b) of Section 16.5 of S.L. 1998-212 reads as rewritten:

"(b) The Commission shall study methods for improving the management and accountability of funds being expended to provide counsel to indigent defendants without compromising the quality of legal representation mandated by State and federal law. In conducting its study, the Commission shall:

(1) Evaluate the current procedures for determining the indigency of defendants and recommend any possible improvements in those procedures;

(2) Determine whether sufficient information is available when evaluating compensation requests from assigned private counsel and expert witnesses;

(3) Assess the effectiveness of the current management structure for the Indigent Persons' Attorney Fee Fund and outline any additional standards or guidelines that could be implemented to allow for greater accountability of the funds being expended;

(4) Evaluate whether establishing an Indigent Defense Council to oversee the State's expenditure of funds on a district, regional, or Statewide basis would make the functioning of the Indigent Persons' Attorney Fee Fund more efficient and economical;

(5) Evaluate the effectiveness of existing methods of providing legal representation to indigent defendants, including the use of public defenders, appointed counsel, and contract lawyers;

(6) Review methods used by other states to provide legal representation to indigent defendants;

(7) Assess the potential effectiveness of distributing funds in other ways, including the hiring of contract attorneys on a retainer basis and the expansion of public defender programs; ~~and~~

(8) Outline additional suggestions that would improve the provision of legal representation to indigent ~~defendants.~~ defendants; and

(9) Evaluate the report on the efficiency and cost-effectiveness of the public defender program provided to the Commission pursuant to Section 16.1 of S.L. 1998-212, and recommend any improvements to public defender programs or the expansion of public defender programs to additional districts, based upon the content of that report.

The Administrative Office of the Courts shall assign professional and clerical staff to assist in the work of the Commission. The Commission shall report its findings and recommendations to the

Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety no later than ~~May 1, 1999.~~ May 1, 2000. The report shall include a cost analysis demonstrating the additional personnel and equipment necessary to implement the Commission's recommendations. The report shall also include any legislation necessary to implement the Commission's recommendations."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

ADD SPECIAL SUPERIOR COURT JUDGES/ADD SUPERIOR COURT JUDGE IN DISTRICT 22

Section 17.12.(a) G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a4) Effective October 1, 1999, the Governor may appoint four special superior court judges to serve terms expiring five years from the date that each judge takes office. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

Section 17.12.(b) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
	3A	Pitt	2
	3B	Carteret, Craven, Pamlico	2
	4A	Duplin, Jones, Sampson	1
	4B	Onslow	1
	5	New Hanover, Pender	3

	6A	Halifax	1
	6B	Bertie, Hertford, Northampton	1
	7A	Nash	1
	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
	8A	Lenoir and Greene	1
	8B	Wayne	1
Second	9	Franklin, Granville, Vance, Warren	2
	9A	Person, Caswell	1
	10A	(part of Wake, see subsection (b))	2
	10B	(part of Wake, see subsection (b))	2
	10C	(part of Wake, see subsection (b))	1
	10D	(part of Wake, see subsection (b))	1
	11A	Harnett, Lee	1
	11B	Johnston	1
	12A	(part of Cumberland, see subsection (b))	1
	12B	(part of Cumberland, see subsection (b))	1
	12C	(part of Cumberland, see subsection (b))	2
	13	Bladen, Brunswick, Columbus	2
	14A	(part of Durham, see subsection (b))	1
	14B	(part of Durham, see subsection (b))	3
	15A	Alamance	2
	15B	Orange, Chatham	1
	16A	Scotland, Hoke	1
	16B	Robeson	2
Third	17A	Rockingham	2
	17B	Stokes, Surry	2
	18A	(part of Guilford, see subsection (b))	1
	18B	(part of Guilford, see subsection (b))	1
	18C	(part of Guilford,	1

		see subsection (b))	
	18D	(part of Guilford, see subsection (b))	1
	18E	(part of Guilford, see subsection (b))	1
	19A	Cabarrus	1
	19B	Montgomery, Moore, Randolph	2
	19C	Rowan	1
	20A	Anson, Richmond	1
	20B	Stanly, Union	2
	21A	(part of Forsyth, see subsection (b))	1
	21B	(part of Forsyth, see subsection (b))	1
	21C	(part of Forsyth, see subsection (b))	1
	21D	(part of Forsyth, see subsection (b))	1
	22	Alexander, Davidson, Davie, Iredell	~~2~~ 3
	23	Alleghany, Ashe, Wilkes, Yadkin	1
Fourth	24	Avery, Madison, Mitchell, Watauga, Yancey	1
	25A	Burke, Caldwell	2
	25B	Catawba	2
	26A	(part of Mecklenburg, see subsection (b))	2
	26B	(part of Mecklenburg, see subsection (b))	2
	26C	(part of Mecklenburg, see subsection (b))	2
	27A	Gaston	2
	27B	Cleveland, Lincoln	2
	28	Buncombe	2
	29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
	30A	Cherokee, Clay, Graham, Macon, Swain	1
	30B	Haywood, Jackson	1".

Section 17.12.(c) The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 22 as authorized by subsection (b) of this section. The successor to that

judge shall be elected in the 2000 general election to serve the remainder of the unexpired term expiring December 31, 2002, in order to provide for unstaggered terms for multiple judgeships in the same district.

Section 17.12.(d) This section becomes effective October 1, 1999.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

CAPITAL CASE PROGRAM

Section 17.13.(a) The Administrative Office of the Courts shall establish a capital case program to be incorporated into the Office of the Appellate Defender to provide assistance to districts experiencing difficulty in locating qualified private counsel to handle capital cases.

Section 17.13.(b) The Administrative Office of the Courts may use up to the sum of three hundred fifty-eight thousand one hundred three dollars ($358,103) from the Indigent Persons' Attorney Fee Fund for the 1999-2000 fiscal year and the sum of three hundred ninety-six thousand eight hundred forty-five dollars ($396,845) for the 2000-2001 fiscal year for salaries, benefits, and related expenses to establish three assistant public defender positions and one investigator to work specifically on capital cases.

Section 17.13.(c) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the effectiveness of the program, including information on which districts have received assistance, the average cost per defendant served, and an estimate of the savings to be realized in using this program rather than privately assigned counsel.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

DRUG TREATMENT COURT FUNDS SHALL NOT REVERT

Section 17.14.(a) Funds appropriated to the Judicial Department for the 1998-99 fiscal year for drug treatment courts shall not revert at the end of the fiscal year but shall remain available to the Department during the 1999-2000 fiscal year to be used for that purpose.

Section 17.14.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

COURT INFORMATION TECHNOLOGY FUND

Section 17.15.(a) G.S. 7A-343 reads as rewritten:

"*7A-343. Duties of Director.*

The Director is the Administrative Officer of the Courts, and his duties include the following:

(1) Collect and compile statistical data and other information on the judicial and financial operation of the courts and on the operation of other offices directly related to and serving the courts;

(2) Determine the state of the dockets and evaluate the practices and procedures of the courts, and make recommendations concerning the number of judges, district attorneys, and magistrates required for the efficient administration of justice;

(3) Prescribe uniform administrative and business methods, systems, forms and records to be used in the offices of the clerks of superior court;

(4) Prepare and submit budget estimates of State appropriations necessary for the maintenance and operation of the Judicial Department, and authorize expenditures from funds appropriated for these purposes;

(5) Investigate, make recommendations concerning, and assist in the securing of adequate physical accommodations for the General Court of Justice;

(6) Procure, distribute, exchange, transfer, and assign such equipment, books, forms and supplies as are to be acquired with State funds for the General Court of Justice;

(7) Make recommendations for the improvement of the operations of the Judicial Department;

(8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy to each member of the General Assembly;

(9) Assist the Chief Justice in performing his duties relating to the transfer of district court judges for temporary or specialized duty; ~~and~~

(9a) Establish and operate systems and services that provide electronic transaction processing and access to court information systems pursuant to G.S. 7A-343.2; and

(10) Perform such additional duties and exercise such additional powers as may be prescribed by statute or assigned by the Chief Justice."

Section 17.15.(b) Article 29 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"*§ 7A-343.2. Court Information Technology Fund.*

The Court Information Technology Fund is established within the Judicial Department as a nonreverting, interest-bearing special revenue account. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund shall be credited to it. All moneys collected by the Director pursuant to G.S. 7A-109(d) shall be remitted to the State Treasurer

and held in this Fund. Moneys in the Fund shall be used to supplement funds otherwise available to the Judicial Department for court information technology needs. The Director shall report by March 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on all moneys collected and deposited in the Fund and on the proposed expenditure of those funds collected during the preceding calendar year."

Section 17.15.(c) G.S. 7A-109(d) reads as rewritten:

"(d) In order to facilitate public access to court records, except where public access is prohibited by law, the Director may enter into one or more nonexclusive contracts under reasonable cost recovery terms with third parties to provide remote electronic access to the records by the public. Costs recovered pursuant to this subsection shall be remitted to the State Treasurer to be held in the Court Information Technology Fund established in G.S. 7A-343.2."

Requested by: Representatives Culpepper, Kinney, McCrary, Alexander, Easterling, Hardaway, Redwine, Baddour, Senators Jordan, Plyler, Perdue, Odom

EDUCATIONAL PROGRAM FOR PARENTS WHO ARE PARTIES TO A CUSTODY OR VISITATION ACTION

Section 17.16.(a) The Administrative Office of the Courts shall establish a program to educate and sensitize separated or divorcing couples with children about the needs of their children during and after the separation and divorce process. The program shall be administered as part of the family court pilot program established by Section 25 of S.L. 1998-202. Program development shall include the following:

(1) An educational course that parties to a custody or visitation action may attend voluntarily or if ordered by the court. The course should be designed to inform attendees of the impact of their separation, custody, or visitation action on:
   a. The children,
   b. The parents' relationship with one another,
   c. The family's relationship, and
   d. The couple's financial responsibilities for the children;

   The course should provide information to attendees on resources available in the community to help them address these issues;

(2) An administrative plan for the implementation of the program in all judicial districts with a family court pilot program; the administrative plan shall include:
   a. Provisions to ensure the program will be financially self-sustaining in each district,

b. Estimates of reasonable fees that attendees would be charged, and a method for waiving such fees in cases of severe financial hardship,
c. Methods for evaluating the courses to ensure effectiveness, and for certifying attendance,
d. How the program will be implemented at the local level, and
e. Other administrative matters identified by the Administrative Office of the Courts as necessary for effective and efficient program implementation;

(3) Identification of course providers with whom the Administrative Office of the Courts would contract to make courses available at reasonable times and for reasonable fees, and to ensure that courses will be available with sufficient regularity to meet the needs of the judicial district in which the program is offered; and
(4) Other matters considered by the Administrative Office of the Courts to be important program components.

The Administrative Office of the Courts shall ensure that the program is operational in all judicial districts with a family court pilot program established pursuant to Section 25 of S.L. 1998-202 no later than January 1, 2000.

Section 17.16.(b) The Administrative Office of the Courts shall ensure involvement and input into the development of the program by persons who have experience in assisting families through and after the divorcing process.

Section 17.16.(c) The court shall order participation in this educational course if it finds that significant parental conflict has adversely affected the children and that the children's best interests would be served by the party or parties' participation in the course.

Section 17.16.(d) The Administrative Office of the Courts shall report to the General Assembly not later than March 1, 2001, on the program developed pursuant to this section. The Administrative Office of the Courts shall make an interim report on the program developed pursuant to this section to the General Assembly as part of its report on the family court pilot program established by Section 25 of S.L. 1998-202. These reports shall include the following:

(1) Progress made on the implementation of the targeted pilot districts and recommendations for the expansion of the program to other districts;
(2) The amount of State funds that will be necessary for the Administrative Office of the Courts to supervise and oversee program operation;
(3) Legislation that may be needed to facilitate program implementation and operation; and
(4) Other recommendations the Administrative Office of the Courts considers appropriate.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Odom, Plyler, Perdue

CRIMINAL CASE ASSISTANCE/FUNDS FOR COURT SERVICES

Section 17.17.(a) G.S. 7A-64 reads as rewritten:

"*§ 7A-64. Temporary assistance ~~when dockets over-crowded.~~ for district attorneys.*

~~When criminal cases accumulate on the dockets of the superior or district courts of a district beyond the capacity of the district attorney and his full-time assistants to keep the dockets reasonably current, the Administrative Officer of the Courts may, on request of the district attorney, supported by facts indicating the need for assistance:~~

A district attorney may apply to the Director of the Administrative Office of the Courts to:

(1) Temporarily assign an assistant district attorney from another district, after consultation with the district attorney thereof, to assist in the prosecution of cases in the requesting district; ~~or~~

(2) Authorize the temporary appointment, by the requesting district attorney, of a qualified attorney to assist the requesting district ~~attorney.~~ attorney; or

(3) Enter into contracts with local governments for the provision of services by the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

The Director of the Administrative Office of the Courts may provide this assistance only upon a showing by the requesting district attorney, supported by facts, that:

(1) Criminal cases have accumulated on the dockets of the superior or district courts of the district beyond the capacity of the district attorney and the district attorney's full-time assistants to keep the dockets reasonably current; or

(2) The overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

The length of service and compensation of ~~such~~ any temporary appointee or the terms of any contract entered into with local governments shall be fixed by Director of the Administrative ~~Officer~~ Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 17.17.(b) Chapter 153A of the General Statutes is amended by adding a new section to read:

"*§ 153A-212.1. Resources to protect the public.*

Subject to the requirements of G.S. 7A-64, a county may appropriate funds under contract with the State for the provision of

services for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 17.17.(c) Chapter 160A of the General Statutes is amended by adding a new section to read:

"*§ 160A-289.1. Resources to protect the public.*

Subject to the requirements of G.S. 7A-64, a city may appropriate funds under contract with the State for the provision of services for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

BUSINESS COURT

Section 17.18.(a) The Administrative Office of the Courts shall ensure that the North Carolina Business Court is available to hold court sessions in judicial districts throughout the State when to do so would be more convenient to the parties to actions before the court.

Section 17.18.(b) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by April 1 of each year on the activities of the North Carolina Business Court, including the number of cases heard by the court and the number of court sessions held outside of Superior Court District 18.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Lee, Plyler, Perdue, Odom

DIVIDE SUPERIOR COURT DISTRICT 19B INTO A SET OF DISTRICTS

Section 17.19.(a) G.S. 7A-41(a), as amended by Section 17.12 of this act, reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
	3A	Pitt	2
	3B	Carteret, Craven, Pamlico	2
	4A	Duplin, Jones, Sampson	1
	4B	Onslow	1
	5	New Hanover, Pender	3
	6A	Halifax	1
	6B	Bertie, Hertford, Northampton	1
	7A	Nash	1
	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
	8A	Lenoir and Greene	1
	8B	Wayne	1
Second	9	Franklin, Granville, Vance, Warren	2
	9A	Person, Caswell	1
	10A	(part of Wake, see subsection (b))	2
	10B	(part of Wake, see subsection (b))	2
	10C	(part of Wake, see subsection (b))	1
	10D	(part of Wake, see subsection (b))	1
	11A	Harnett, Lee	1
	11B	Johnston	1
	12A	(part of Cumberland, see subsection (b))	1
	12B	(part of Cumberland,	1

		see subsection (b))	
	12C	(part of Cumberland, see subsection (b))	2
	13	Bladen, Brunswick, Columbus	2
	14A	(part of Durham, see subsection (b))	1
	14B	(part of Durham, see subsection (b))	3
	15A	Alamance	2
	15B	Orange, Chatham	1
	16A	Scotland, Hoke	1
	16B	Robeson	2
Third	17A	Rockingham	2
	17B	Stokes, Surry	2
	18A	(part of Guilford, see subsection (b))	1
	18B	(part of Guilford, see subsection (b))	1
	18C	(part of Guilford, see subsection (b))	1
	18D	(part of Guilford, see subsection (b))	1
	18E	(part of Guilford, see subsection (b))	1
	19A	Cabarrus	1
	~~19B~~ 19B1	(part of Montgomery, part of Moore, part of Randolph see subsection (b))	~~2~~ 1
	19B2	(part of Montgomery, part of Moore, part of Randolph see subsection (b))	1
	19C	Rowan	1
	20A	Anson, Richmond	1
	20B	Stanly, Union	2
	21A	(part of Forsyth, see subsection (b))	1
	21B	(part of Forsyth, see subsection (b))	1
	21C	(part of Forsyth, see subsection (b))	1
	21D	(part of Forsyth, see subsection (b))	1
	22	Alexander, Davidson, Davie, Iredell	3
	23	Alleghany, Ashe,	1

		Wilkes, Yadkin	
Fourth	24	Avery, Madison, Mitchell, Watauga, Yancey	1
	25A	Burke, Caldwell	2
	25B	Catawba	2
	26A	(part of Mecklenburg, see subsection (b))	2
	26B	(part of Mecklenburg, see subsection (b))	2
	26C	(part of Mecklenburg, see subsection (b))	2
	27A	Gaston	2
	27B	Cleveland, Lincoln	2
	28	Buncombe	2
	29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
	30A	Cherokee, Clay, Graham, Macon, Swain	1
	30B	Haywood, Jackson	1"

Section 17.19.(b) G.S. 7A-41(b) is amended by adding two new subdivisions to read:

"(24) Superior Court District 19B1 consists of all of Montgomery County except for Star Precinct, the following precincts of Moore County: #8 West End, #9 Eastwood, #11 Vass, #12 Little River, #14 Taylortown, #17 South Southern Pines, #19 North Southern Pines; #20 West Aberdeen, #21 East Aberdeen, #22 Pinedene, #23 Pinebluff, and the remainder of Randolph County not in Superior Court District 19B2. It has one judge.

(25) Superior Court District 19B2 consists of Star Precinct in Montgomery County, the remainder of Moore County not in Superior Court District 19B1, and the following precincts of Randolph County: Archdale I, Archdale II, Archdale III, Brower, Coleridge, Franklinville, Grant, Level Cross, Liberty, New Market North, New Market South, Pleasant Grove, Prospect, Providence, Ramseur, Richland, Staley, Trinity East, and Trinity West. It has one judge."

Section 17.19.(c) G.S. 7A-41(c) is amended by adding a new subdivision to read:

"(7) The names and boundaries of precincts in Montgomery, Moore, and Randolph Counties are those in existence on March 15, 1999."

Section 17.19.(d) Section 1(b) of Chapter 589 of the 1995 Session Laws is codified at the end of G.S. 7A-41(d)(39), and G.S. 7A-41(d)(39), as so modified reads as rewritten:

"(39) In the ~~nineteenth-B~~ nineteenth-B1 superior court district, Russell G. Walker, Jr., serves a term expiring December 31, 1990. No election shall be held in 1998 for the full term of the seat now occupied by Russell G. Walker, Jr., and the holder of that seat shall serve until a successor is elected in 2000 and qualifies. The succeeding term shall begin January 1, 2001. The superior court judgeship held on June 12, 1996, in Superior Court District 20A by a resident of Moore County (James M. Webb) is allocated to Superior Court District ~~19B.~~ 19B2. The term of that judge expires December 31, 2000. The judge's successor shall be elected in the 2000 general election."

Section 17.19.(e) This section becomes effective January 1, 2001, and applies to the 2000 election.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

DIVIDE SUPERIOR COURT DISTRICT 5 INTO A SET OF DISTRICTS

Section 17.20.(a) G.S. 7A-41(a), as amended by Section 17.12 and Section 17.19 of this act, reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
	3A	Pitt	2
	3B	Carteret, Craven, Pamlico	2
	4A	Duplin, Jones, Sampson	1
	4B	Onslow	1
	~~5~~ 5A	(part of New Hanover, part of Pender	~~3~~ 1

		see subsection (b))	
	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover see subsection (b))	1
	6A	Halifax	1
	6B	Bertie, Hertford, Northampton	1
	7A	Nash	1
	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
	8A	Lenoir and Greene	1
	8B	Wayne	1
Second	9	Franklin, Granville, Vance, Warren	2
	9A	Person, Caswell	1
	10A	(part of Wake, see subsection (b))	2
	10B	(part of Wake, see subsection (b))	2
	10C	(part of Wake, see subsection (b))	1
	10D	(part of Wake, see subsection (b))	1
	11A	Harnett, Lee	1
	11B	Johnston	1
	12A	(part of Cumberland, see subsection (b))	1
	12B	(part of Cumberland, see subsection (b))	1
	12C	(part of Cumberland, see subsection (b))	2
	13	Bladen, Brunswick, Columbus	2
	14A	(part of Durham, see subsection (b))	1
	14B	(part of Durham, see subsection (b))	3
	15A	Alamance	2
	15B	Orange, Chatham	1
	16A	Scotland, Hoke	1
	16B	Robeson	2
Third	17A	Rockingham	2

	17B	Stokes, Surry	2
	18A	(part of Guilford, see subsection (b))	1
	18B	(part of Guilford, see subsection (b))	1
	18C	(part of Guilford, see subsection (b))	1
	18D	(part of Guilford, see subsection (b))	1
	18E	(part of Guilford, see subsection (b))	1
	19A	Cabarrus	1
	19B1	part of Montgomery, part of Moore, part of Randolph	1
	19B2	part of Montgomery, part of Moore, part of Randolph (see subsection b)	1
	19C	Rowan	1
	20A	Anson, Richmond	1
	20B	Stanly, Union	2
	21A	(part of Forsyth, see subsection (b))	1
	21B	(part of Forsyth, see subsection (b))	1
	21C	(part of Forsyth, see subsection (b))	1
	21D	(part of Forsyth, see subsection (b))	1
	22	Alexander, Davidson, Davie, Iredell	3
	23	Alleghany, Ashe, Wilkes, Yadkin	1
Fourth	24	Avery, Madison, Mitchell, Watauga, Yancey	1
	25A	Burke, Caldwell	2
	25B	Catawba	2
	26A	(part of Mecklenburg, see subsection (b))	2
	26B	(part of Mecklenburg, see subsection (b))	2
	26C	(part of Mecklenburg, see subsection (b))	2
	27A	Gaston	2
	27B	Cleveland, Lincoln	2
	28	Buncombe	2

29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
30A	Cherokee, Clay, Graham, Macon, Swain	1
30B	Haywood, Jackson	1"

Section 17.20.(b) G.S. 7A-41(b) is amended by adding three new subdivisions to read:

"(26) Superior Court District 5A consists of the New Hanover County precincts of Cape Fear #1, Cape Fear #2, Harnett #1, Harnett #4, Harnett #6, Wilmington #1, Wilmington #2, Wilmington #3, Wilmington #4, Wilmington #6, Wilmington #7, Wilmington #8, Wilmington #9, Wilmington #10, Wilmington #15, Wilmington #19, and the part of Harnett #7 that consists of the part of Block Group 6 of 1990 Census Tract 0116.02 containing Blocks 601B, 602B, 603, 611, 612, 613, 614, 615, 616, 617, 618, 619; and the Pender County precincts of Canetuck, Caswell, Columbia, Grady, Upper Holly, and Upper Union. It has one judge.

(27) Superior Court District 5B consists of the New Hanover County precincts of Cape Fear #3, Harnett #2, Harnett #5, the part of Harnett #7 that is not in Superior Court District 5A, Harnett #8, Wrightsville Beach, Wilmington #11, Wilmington #12, Wilmington #13, Wilmington #22, Wilmington #24, and the part of Harnett #3 that consists of the part of Block Group 1 of 1990 Census Tract 0119.01 containing Blocks 102, 105, 106A, 106B, 107A, 107B, 107C, 107D, and 108, the part of Block Group 1 of 1990 Census Tract 0119.02 containing Blocks 103, 104, and 114, and the part of Block Group 1 of 1990 Census Tract 0120.01 containing Blocks 101A, 101B, 101C, 101D, 102A, 102B, 103, 104, 105A, 105B, 115A, and 115B; and the following precincts of Pender County: North Burgaw, South Burgaw, Middle Holly, Long Creek, Penderlea, Lower Union, Rocky Point, Lower Topsail, Upper Topsail, Scotts Hill, and Surf City. It has one judge.

(28) Superior Court District 5C consists of the part of New Hanover County that is not in Superior Court Districts 5A or 5B. It has one judge."

Section 17.20.(c) G.S. 7A-41(c) is amended by adding a new subdivision to read:

"(8) The names and boundaries of precincts in New Hanover and Pender Counties are those in existence on May 1, 1999."

Section 17.20.(d) This section becomes effective January 1, 2003, and applies to the 2002 election.

PART XVIII. DEPARTMENT OF CORRECTION

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

MODIFICATION OF FUNDING FORMULA FOR THE NORTH CAROLINA STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP ACT/STATUS REPORT ON CRIMINAL JUSTICE PARTNERSHIP PROGRAM

Section 18.(a) Notwithstanding the funding formula set forth in G.S. 143B-273.15, appropriations made to the Department of Correction through the North Carolina State-County Criminal Justice Partnership Act for the 1999-2000 fiscal year shall be distributed to the counties as specified in G.S. 143B-273.15(2) only, and not as discretionary funds. The Department may also use funds from the State-County Criminal Justice Partnership Account in order to maintain the counties' allocations of nine million six hundred thousand dollars ($9,600,000) as provided in previous fiscal years.

Section 18.(b) Appropriations not claimed or expended by the counties during the 1999-2000 fiscal year shall be distributed as specified in G.S. 143B-273.15(1). A single county may apply for discretionary funds under G.S. 143B-273.15(1) for a residential program that serves offenders from other counties; in order for those other counties to assign offenders to such a program, those counties shall include a residential component in an approved partnership plan.

Section 18.(c) The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully-developed plan for each type of sanction.

Section 18.(d) The Department of Correction shall report by February 1, 2000, to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections and Crime Control Oversight Committee on the status of the Criminal Justice Partnership Program. The report shall include the following information:

(1) The amount of funds carried over from the 1998-99 fiscal year to the 1999-2000 fiscal year;
(2) The dollar amount and purpose of grants awarded to counties as discretionary grants for 1999-2000;
(3) Any counties the Department anticipates will submit requests for new implementation grants;
(4) The number of counties submitting offender participation data via the electronic reporting system;

(5) An analysis of offender participation data received during 1999-2000; and

(6) An update on efforts to ensure that all counties make use of the electronic reporting system.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

Section 18.1. The Post-Release Supervision and Parole Commission shall report by March 1, 2000, to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on an updated transition plan for implementing staff reductions through the 2002-2003 fiscal year, including a minimum ten percent (10%) reduction in staff positions in the 2000-2001 fiscal year over the 1999-2000 fiscal year.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom, Ballance

REDUCE MEMBERSHIP ON POST-RELEASE SUPERVISION AND PAROLE COMMISSION

Section 18.2. G.S. 143B-267 reads as rewritten:

"§ *143B-267. Post-Release Supervision and Parole Commission -- members; selection; removal; chairman; compensation; quorum; services.*

The Post-Release Supervision and Parole Commission shall consist of ~~five~~ three full-time members. The ~~five~~ three full-time members shall be appointed by the Governor from persons whose recognized ability, training, experience, and character qualify them for service on the Commission. The terms of office of the five members presently serving on the Commission shall expire on ~~June 30, 1993.~~ July 31, 1999. ~~The terms of three members appointed effective July 1, 1993, shall be for three years. The terms of two members appointed effective July 1, 1993, shall be for four years.~~ The term of one of the members appointed effective August 1, 1999, shall be for one year. The term of one of the members appointed effective August 1, 1999, shall be for two years. The term of one of the members appointed effective August 1, 1999, shall be for three years. Thereafter, the terms of office of persons appointed by the Governor as members of the Commission shall be for four years or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, removal, death or disability of a full-time member shall be for the balance of the unexpired term only.

The Governor shall have the authority to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of G.S. 143B-13. The Governor shall

designate a full-time member of the Commission to serve as chairman of the Commission at the pleasure of the Governor.

~~With regard to the transaction of the business of the Commission the following procedure shall be followed: The chairman shall designate panels of two voting Commission members and shall designate a third commissioner to serve as an alternate member of a panel. Insofar as practicable, the chairman shall assign the members to panels in such fashion that each commissioner sits a substantially equal number of times with each other commissioner. Whenever any matter of business, such as the granting, denying, revoking or rescinding of parole, or the authorization of work-release privileges to a prisoner, shall come before the Commission for consideration and action, the chairman shall refer such matter to a panel. Action may be taken by concurring vote of the two sitting panel members. If there is not a concurring vote of the two panel members, the matter will be referred to the alternate member who shall cast the deciding vote. However, no person serving a sentence of life imprisonment shall be granted parole or work-release privileges except by majority vote of the full Commission.~~ The granting, denying, revoking, or rescinding of parole, the authorization of work-release privileges to a prisoner, or any other matters of business coming before the Commission for consideration and action shall be decided by majority vote of the full Commission.

The full-time members of the Commission shall receive the salary fixed by the General Assembly in the Current Operations Appropriations Act and shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6.

All clerical and other services required by the Commission shall be supplied by the Secretary of Correction."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

HOME AS DUTY STATION PILOT PROGRAM

Section 18.3. The Department of Correction shall report by April 1, 2000, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the Home As Duty Station pilot program in Cleveland and New Hanover Counties. The report shall provide (i) information on the impact of the pilot on expenditures for office and vehicle leases including an analysis of charges for vehicle miles not driven; (ii) data on the frequency of officers in the pilots being required to report directly from home to locations in the community outside of normally assigned working hours; and (iii) the projected impact of extending the pilot program to additional districts, including office, vehicle, and equipment costs.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REPORT ON HARRIET'S HOUSE

Section 18.4. Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's House shall report by September 1 and March 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served and the number of clients who successfully complete the Harriet's House program.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REPORT ON SUMMIT HOUSE

Section 18.5. Summit House shall report by September 1 and March 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have their probation revoked, and the number of clients who successfully complete the program while housed at Summit House.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REPORT ON WOMEN AT RISK

Section 18.6. Women at Risk shall report by September 1 and March 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

FEDERAL GRANT REPORTING

Section 18.7. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Office of Juvenile Justice shall report by September 1 and March 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety

on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

EXEMPTION FROM LICENSURE AND CERTIFICATE OF NEED

Section 18.8.(a) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction shall be exempt from licensure by the Department of Health and Human Services under Chapter 122C of the General Statutes. If an inpatient chemical dependency or substance abuse facility provides services both to inmates of the Department of Correction and to members of the general public, the portion of the facility that serves inmates shall be exempt from licensure.

Section 18.8.(b) Any person who contracts to provide inpatient chemical dependency or substance abuse services to inmates of the Department of Correction may construct and operate a new chemical dependency or substance abuse facility for that purpose without first obtaining a certificate of need from the Department of Health and Human Services pursuant to Article 9 of Chapter 131E of the General Statutes. However, a new facility or addition developed for that purpose without a certificate of need shall not be licensed pursuant to Chapter 122C of the General Statutes and shall not admit anyone other than inmates unless the owner or operator first obtains a certificate of need.

Section 18.8.(c) This section applies to existing facilities, as well as future facilities contracting with the Department of Correction.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

LIMIT USE OF OPERATIONAL FUNDS

Section 18.9. Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 90 days of projected completion, except

for certain management, security, and support positions necessary to prepare the facility for opening, as authorized in the budget approved by the General Assembly.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

Section 18.10.(a) The Department of Correction may use funds appropriated to the Department for the 1999-2000 fiscal year to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates and parolees and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections and Crime Control Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Section 18.10.(b) G.S. 148-29 reads as rewritten:

"§ *148-29. Transportation of convicts to prison; reimbursement to counties; sheriff's expense affidavit.*

(a) The sheriff having in charge any prisoner to be taken to the State prison system shall send the prisoner to the custody of the Department of Correction ~~within five days~~ after sentencing and the disposal of all pending charges against the prisoner, if no appeal has been taken. Beginning on the ~~sixth day after sentencing and disposal of all pending charges against the prisoner~~ day after the Division of Prisons has been notified by the sheriff that a prisoner is ready for transfer and the Division has informed the sheriff that bedspace is not available for that prisoner, and continuing through the day the prisoner is received by the Division of Prisons, the Department of Correction shall pay the county:

(1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the prisoner awaiting transfer to the State prison system; and

(2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by prisoners awaiting transfer to the State prison system.

If the Division of Prisons determines that bedspace is not available for a prisoner after the sheriff has notified the Division that the prisoner

is ready for transfer, reimbursement under this subsection shall be made beginning on the day after the sheriff gave the notification.

(b) The sheriff having in charge any parolee or post-release supervisee to be taken to the State prison system shall send the prisoner to the custody of the Department of Correction ~~within five days~~ after preliminary hearing held under G.S. 15A-1368.6(b) or G.S. 15A-1376(b). Beginning on the ~~sixth day after the hearing~~ day after the Division of Prisons has been notified by the sheriff that a prisoner is ready for transfer and the Division has informed the sheriff that bedspace is not available for that prisoner, and continuing through the day the prisoner is received by the Division of Prisons, the Department of Correction shall pay the county:

(1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the parolee or post-release supervisee awaiting transfer to the State prison system; and

(2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by parolees or post-release supervisees awaiting transfer to the State prison system.

If the Division of Prisons determines that bedspace is not available for a prisoner after the sheriff has notified the Division that the prisoner is ready for transfer, reimbursement under this subsection shall be made beginning on the day after the sheriff gave the notification.

(c) The sheriff shall file with the board of commissioners of his county a copy of his affidavit as to necessary guard, together with a copy of his itemized account of expenses, both certified to by him as true copies of those on file in his office."

Section 18.10.(c) Chapter 7A of the General Statutes is amended by adding a new section to read:

"*§ 7A-109.3. Delivery of commitment order.*

(a) Whenever the district court sentences a person to imprisonment and commitment to the custody of the Department of Correction pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 48 hours of the issuance of the sentence.

(b) Whenever the superior court sentences a person to imprisonment and commitment to the custody of the Department of Correction pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 72 hours of the issuance of the sentence."

Section 18.10.(d) This section becomes effective October 1, 1999.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

USE OF FACILITIES CLOSED UNDER GPAC

Section 18.11. In conjunction with the closing of small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from medium security to minimum security, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections and Crime Control Oversight Committee. The Department of Correction shall also provide quarterly summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections and Crime Control Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

Requested by: Representatives Mitchell, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

SITE FOR NEW CLOSE CUSTODY PRISON

Section 18.11A. In determining site locations for proposed new close custody prison facilities, the Department of Correction shall consider Alexander and Iredell Counties for the site of the proposed new close custody prison in Western North Carolina.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

INMATE COSTS

Section 18.12.(a) The Department of Correction shall provide a progress report by April 1, 2000, to the Joint Legislative Commission on Governmental Operations, the Chairs of the House

and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on its implementation of the recommendations made by the Office of State Budget and Management on the provision of food and health care to inmates pursuant to the study directed by Section 17.8 of S.L. 1998-212. The report shall identify specific areas in which cost savings can be achieved through the more efficient delivery of services.

Section 18.12.(b) If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

TITLE VII FUNDS/REPORT

Section 18.13. The Department of Correction may use funds available to the Department during the 1999-2001 biennium for payment to claimants as part of the settlement of the Title VII lawsuit over the recruitment, hiring, and promotion of females in the Department. Prior to final settlement of the lawsuit, the Department shall report on the proposed settlement to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections and Crime Control Oversight Committee, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION/SPECIAL COMMITTEE TO REWRITE STANDARDS, CODE, AND POLICY PROCEDURES FOR EMPLOYMENT OF CERTIFIED POSITIONS IN THE DEPARTMENT OF CORRECTION

Section 18.14. The Criminal Justice Education and Training Standards Commission shall appoint a special committee to study and rewrite the necessary standards, administrative code provisions, and policies and procedures relating to the employment of certified positions in the Department of Correction and develop a new certification system for those officers that reflects the impact and

statutory requirements of Chapters 126 and 17C of the General Statutes.

The Chair of the Criminal Justice Education and Training Standards Commission and the Chair of the special committee appointed pursuant to this section shall report to the Joint Legislative Corrections and Crime Control Oversight Committee by March 1, 2000, on the progress of the special committee.

The proposed new certification system shall be presented to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by the convening of the 2000 Regular Session of the 1999 General Assembly.

Upon approval of the Criminal Justice Education and Training Standards Commission, the new certification system shall be implemented no later than July 1, 2000.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

FEDERAL GRANT MATCHING FUNDS

Section 18.15. Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of six hundred fifty thousand dollars ($650,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

PRIVATE PRISON CONTRACTS

Section 18.16. If the Department of Correction determines, in consultation with the Attorney General's office, the Office of State Budget and Management, and the Corrections Corporation of America, that it is appropriate to make a significant modification of the financial terms of the contracts for the leasing and operation of one or both of the two private confinement facilities in Pamlico and Avery/Mitchell Counties, the Department may use funds available to the Department for the 1999-2001 biennium to modify the lease contract and the operating agreement as necessary. Prior to taking actions or obligating funds as authorized by this section, the Department of Correction shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Allred, Senators Jordan, Plyler, Perdue, Odom

PILOTS TO DETERMINE COST-EFFECTIVENESS OF PLACING ALL INMATES ON WORK-RELEASE

Section 18.17. Section 17.25 of S.L. 1998-212 reads as rewritten:

"Section 17.25. (a) The Department of Correction shall establish a pilot program for determining the benefits of work-release prison units by placing all eligible inmates in the Alamance Correctional Center on work release to the extent possible. The Department shall provide a progress report on this pilot program to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by June 30, 2000. The Department shall provide a final report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, ~~1999,~~ 2001, on the cost-effectiveness of the program.

(b) The Department of Correction shall establish a pilot program for determining the benefits of work-release prison units by placing all eligible inmates in the Union Correctional Center, except those needed for Department of Transportation road squads, on work release to the extent possible. The Department shall provide a progress report on this pilot program to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by June 30, 2000. The Department shall provide a final report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, ~~1999,~~ 2001, on the cost-effectiveness of the program."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REPORT ON PROBATION AND PAROLE CASELOADS

Section 18.18. The Department of Correction shall report by March 1, 2000, to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections and Crime Control Oversight Committee on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;

(2) An analysis of the optimal caseloads for these new officer classifications;

(3) An assessment of the role of surveillance officers; and

(4) Projected impact of the new officer classifications and procedures on the operating and equipment expenditures of the Division of Community Correction.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

PROPOSED STANDARDS FOR PRIVATE PRISONS FOR OUT-OF-STATE INMATES

Section 18.19.(a) Subsection (b) of Section 19.17 of S.L. 1997-443, as amended by subsection (b) of Section 17.23 of S.L. 1998-212, reads as rewritten:

"(b) The Department of Correction, in cooperation with the Department of Justice, Department of Insurance, and Office of State Construction, shall establish proposed standards for any private correctional facilities in this State that are used to confine inmates from a jurisdiction other than North Carolina, a political subdivision of North Carolina, or the federal government. These standards shall include provisions for all such facilities to:

(1) Meet minimum responsibility and insurance standards and may provide for the posting of surety bonds;
(2) Meet or exceed all standards applicable to the State prison system, particularly those standards relating to inmate care and treatment;
(3) Provide for the transfer or return of all inmates to the jurisdiction in which the inmates were originally convicted prior to release of the inmates;
(4) Permit officials of the State of North Carolina to conduct periodic inspections of all such facilities; and
(5) Meet any other standards the departments deem advisable.

The Department of Correction shall provide a final report on these proposed standards to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections and Crime Control Oversight Committee, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 15, ~~1999.~~ 2000, and shall provide a progress report on the development of these standards to the Joint Legislative Corrections and Crime Control Oversight Committee by November 1, 1999. The report shall include a recommendation on the appropriate regulatory agency or agencies to enforce these standards and on the necessary enforcement authority to be vested in that agency or agencies. The report shall also include a draft of legislation necessary to enact the proposed standards and regulatory authority.

The Department of Correction shall also consult with the Department of Justice on the appropriateness of the penalty provided for in G.S. 14-256.1, enacted in subsection (a) of this section, and on the implications of convicting inmates already serving sentences imposed by other jurisdictions in private prisons located in North Carolina. The Department of Correction shall include the conclusions

reached during its consultation with the Department of Justice in the report required by this section."

Section 18.19.(b) Subsection (c) of Section 19.17 of S.L. 1997-443, as amended by subsection (c) of Section 17.23 of S.L. 1998-212, reads as rewritten:

"(c) No municipality, county, or private entity may authorize, construct, own, or operate any type of correctional facility for the confinement of inmates from any jurisdiction other than North Carolina, a political subdivision of North Carolina, or the federal government until the Department of Correction has developed proposed standards for such private correctional facilities pursuant to ~~subsection (b) of this section~~ Section 19.17 of S.L. 1997-443, as amended, and the General Assembly has acted upon those standards. No private confinement facility authorized under G.S. 148-37(g) that receives payment from this State for the housing of State prisoners may contain inmates from any jurisdiction other than North Carolina or a political subdivision of North Carolina without the written consent of the Secretary of Correction."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

CLOSE SECURITY PRISONS

Section 18.20.(a) G.S. 148-37 is amended by adding a new subsection to read:

"(b1) The Secretary of Correction may enter contracts with private for-profit or nonprofit firms for the construction of three close security correctional facilities totaling up to 3,000 cells to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years. The Secretary may issue a request for proposals for the construction of such facilities in accordance with plans and specifications developed by the Department and reviewed by the Office of State Construction. The request for proposals shall provide for the option of bidding on one or more of the facilities, and shall require each bidder to provide a separate bid on a single facility of up to 1,000 cells.

The Secretary of Correction, in consultation with the Chairs of the Joint Legislative Corrections and Crime Control Oversight Committee and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, shall make recommendations to the Department of Administration on the final award decision. The Department of Administration shall make the final award decision, and the contract shall then be subject to the approval of the Council of State after consultation with the Joint Legislative Commission on Governmental Operations.

Contracts made under the authority of this subsection shall provide that the Department of Correction shall furnish the plans and specifications for these correctional facilities to the Office of State Construction for its review and that the Office of State Construction

shall inspect and review each project during construction to ensure that the project is suitable for use as a correctional facility and for future acquisition by the State."

Section 18.20.(b) The Department of Correction shall provide a status report to the Joint Legislative Commission on Governmental Operations by May 1, 2000, on the development of the request for proposals and the award-making process, including a summary of the major requirements anticipated in the request for proposals. After the contract has been awarded, the Department shall report to the Joint Legislative Commission on Governmental Operations by May 1 of each year on the progress of the project, including the estimated completion dates and the estimated cost of operating correctional facilities constructed pursuant to this section.

Requested by: Representatives Justus, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

COMMUNITY WORK PROGRAM

Section 18.21. G.S. 148-26(a) reads as rewritten:

"(a) It is declared to be the public policy of the State of North Carolina that all able-bodied prison inmates shall be required to perform diligently all work assignments provided for them. The failure of any inmate to perform such a work assignment may result in disciplinary action. Work assignments and employment shall be for the public benefit to reduce the cost of maintaining the inmate population while enabling inmates to acquire or retain skills and work habits needed to secure honest employment after their release.

In exercising his power to enter into contracts to supply inmate labor as provided by this section, the Secretary of Correction shall not assign any inmate to work under any such contract who is eligible for work release as provided in this Article, study release as provided by G.S. 148-4(4), or who is eligible for a program of vocational rehabilitation services through the State Vocational Rehabilitation Agency, unless suitable work release employment or educational opportunity cannot be found for the inmate, and the inmate is not eligible for a program of vocational rehabilitation services through the State Vocational Rehabilitation Agency, and shall not agree to supply inmate labor for any project or service unless it meets all of the following criteria:

(1) The project or service involves a type of work by which inmates can develop a skill to better equip themselves to return to society;

(2) The project or service is of benefit to the citizens of North Carolina or units of State or local government ~~thereof;~~ thereof, regardless of whether the project or service is performed on public or private property;

(3) Repealed by Session Laws 1977, c. 824, s. 2.

(4) Wages shall be paid in an amount not exceeding one dollar ($1.00) per day per inmate by the local or State contracting agency."

PART XIX. DEPARTMENT OF JUSTICE

Requested by: Representatives Redwine, Culpepper, Kinney, McCrary, Easterling, Hardaway, Senators Carter, Plyler, Perdue, Odom, Jordan, Ballance, Moore

REPEAL SETTLEMENT RESERVE FUND

Section 19.(a) G.S. 143-16.5 is repealed.

Section 19.(b) G.S. 114-2.5 reads as rewritten:

"§ *114-2.5. Attorney General to report payment of public monies pursuant to settlement agreements and final court orders.*

(a) ~~The~~ Not less than 30 days prior to the disbursement of funds received by the State or a State agency pursuant to a settlement agreement or final order or judgment of the court where the amount of funds received exceeds seventy-five thousand dollars ($75,000), the Attorney General shall file a written report ~~to~~ with the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives on the payments received by the State or a State agency. ~~pursuant to a settlement agreement or final order or judgment of the court and deposited to the Public Settlement Reserve Fund in accordance with G.S. 143-16.5.~~ The Attorney General shall also report on the terms or conditions of payment and of any disbursements set forth in the agreement or order. The Attorney General shall submit a written report to the Fiscal Research Division of the General Assembly.

(b) This section only applies to executed settlement agreements and final orders or judgments of the court and shall in no way affect the authority of the Attorney General to negotiate the settlement of cases in which the State or a State department, agency, institution, or officer is a party."

Section 19.(c) This section is effective when it becomes law and applies to any agreements or orders entered on or after November 15, 1998.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

LIMITS ON COMPUTER SYSTEM UPGRADE

Section 19.1. Any major new computer system or major computer system upgrade for the Judicial Department, the Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, or the Office of Juvenile Justice to be funded all or in part from the Continuation Budget, shall be reported to the Joint Legislative Commission on Governmental Operations, to the Chairs of the Senate and House of Representatives Appropriations Committees, to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and to any standing committee on information technology appointed by the Senate or House of Representatives before the department or office enters into

any contractual agreement. A major computer system upgrade includes any proposed enhancement, modification, or capacity increase to the computing and telecommunications infrastructure or to program applications where the total cost is anticipated to exceed five hundred thousand dollars ($500,000). This report is to be made jointly by the Information Resource Management Commission, the Office of State Budget and Management, and the requesting department or office.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

CRIMINAL JUSTICE INFORMATION NETWORK REPORT

Section 19.2. The Criminal Justice Information Network Governing Board created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session shall report by March 1, 2000, to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on:

(1) The operations of the Board, including the Board's progress in developing data-sharing standards in cooperation with State and local agencies and the estimated time of completion of the standards;

(2) The operating budget of the Board, the expenditures of the Board as of the date of the report, and the amount of funds in reserve for the operation of the Board; and

(3) A long-term strategic plan and cost analysis for statewide implementation of the Criminal Justice Information Network. For each component of the Network, the initial cost estimate of the component, the amount of funds spent to date on the component, the source of funds for expenditures to date, and a timetable for completion of that component, including additional resources needed at each point.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

Section 19.3.(a) Assets transferred to the Department of Justice during the 1999-2001 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the Department. Assets transferred to the Department of Crime Control and Public Safety during the 1999-2001 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the Department. The Departments of Justice and Crime Control and

Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended, except during the 1999-2000 fiscal year, the Department of Justice may:

(1) Use an amount not to exceed the sum of twenty-five thousand dollars ($25,000) of the funds to extend the lease of space in the Town of Salemburg for training for the State Bureau of Investigation; and

(2) Use an amount not to exceed the sum of fifty thousand dollars ($50,000) of the funds to lease space for its technical operations unit, storage of its equipment and vehicles, and command post vehicle.

Section 19.3.(b) The General Assembly finds that the use of assets transferred pursuant to 19 U.S.C. § 1616a for new personnel positions, new projects, the acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

Section 19.3.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice pursuant to 19 U.S.C. § 1616a.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

Section 19.4. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those boards by the State.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS

Section 19.5. Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION

Section 19.6. The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina system.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

EXEMPT JUSTICE ACADEMY FROM THE UMSTEAD ACT

Section 19.7. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(19) The North Carolina Justice Academy."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

STUDY FEE ADJUSTMENT FOR CRIMINAL RECORDS CHECKS

Section 19.8. The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information of the Department of Justice as a result of the increase in receipts from criminal records checks. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to providing criminal records checks and how those costs have changed since the 1995-96 fiscal year. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on or before March 1, 2000.

PART XX. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS

Section 20.(a) Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that the State application for Drug Law Enforcement Grants is subject to review by the State legislature or its designated body. Therefore, the Governor's Crime

Commission of the Department of Crime Control and Public Safety shall report on the State application for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, to the Senate and House Appropriations Subcommittees on Justice and Public Safety when the General Assembly is in session. When the General Assembly is not in session, the Governor's Crime Commission shall report on the State application to the Joint Legislative Commission on Governmental Operations.

Section 20.(b) Unless a State statute provides a different forum for review, when a federal law or regulation provides that an individual State application for a grant shall be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Cooper, Jordan, Plyler, Perdue, Odom

VICTIMS ASSISTANCE NETWORK FUNDS

Section 20.1.(a) Of the funds appropriated in this act to the Department of Crime Control and Public Safety, the sum of five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year and the sum of one hundred fifty thousand dollars ($150,000) for the 2000-2001 fiscal year shall be used to support the Victims Assistance Network. These funds shall be used by the Victims Assistance Network to perform the following functions under the direction of and as required by the Department of Crime Control and Public Safety:

(1) Conduct surveys and gather data on crime victims and their needs;
(2) Act as a clearinghouse for crime victims' services;
(3) Provide an automated crime victims' bulletin board for subscribers;
(4) Coordinate and support the activities of other crime victims' advocacy groups;
(5) Identify training needs of crime victims' services providers and criminal justice personnel and coordinate training efforts for those persons; and
(6) Provide other services as identified by the Governor's Crime Commission or the Department of Crime Control and Public Safety.

Section 20.1.(b) The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated pursuant to this section for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, coordinate and support activities of other crime

victims' advocacy groups, identify the training needs of crime victims' services providers and criminal justice personnel, and coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by December 1 of each year of the biennium.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REPORT ON CRIME VICTIMS COMPENSATION FUND

Section 20.2. G.S. 15B-21 reads as rewritten:

"*§ 15B-21. Annual report.*

The Commission ~~shall~~ shall, by March 15 each year, prepare and transmit ~~annually~~ to the Governor and the General Assembly a report of its ~~activities.~~ activities in the prior fiscal year and the current fiscal year to date. The report shall ~~include~~ include:

(1) ~~the~~ The number of claims ~~filed,~~ filed;
(2) ~~the~~ The number of awards ~~made,~~ made;
(3) ~~the~~ The amount of each ~~award,~~ award;
(4) ~~a~~ A statistical summary of claims denied and awards ~~made,~~ made;
(5) ~~and the~~ The administrative costs of the Commission, including the compensation of ~~commissioners.~~ commissioners;
(6) The current unencumbered balance of the North Carolina Crime Victims Compensation Fund;
(7) The amount of funds carried over from the prior fiscal year;
(8) The amount of funds received in the prior fiscal year from the Department of Correction and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.; and
(9) The amount of funds expected to be received in the current fiscal year, as well as the amount actually received in the current fiscal year on the date of the report, from the Department of Correction and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.

The Attorney General and State Auditor shall assist the Commission in the preparation of the report required by this section."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

TECHNICAL CHANGES TO BOXING COMMISSION LAW

Section 20.3.(a) G.S. 143-652(f) reads as rewritten:

"(f) Staff Assistance. -- The Secretary of Crime Control and Public Safety shall hire a person to serve as Executive Director of the Commission and shall provide staff assistance to the Executive

Director. The Executive Director shall enforce this ~~Article through the Division of Alcohol Law Enforcement.~~ Article through the Department of Crime Control and Public Safety. If necessary, the Executive Director may train and contract with independent contractors for the purpose of regulating and monitoring events, issuing licenses, collecting fees, and enforcing rules of the Commission. The Executive Director may initiate and review criminal background checks on persons requesting to work as independent contractors for the Commission or persons applying to be licensed by the Commission."

Section 20.3.(b) G.S. 143-654(c) reads as rewritten:

"(c) Surety Bond. -- An applicant for a promoter's license must submit, in addition to any other forms, documents, or exhibits requested by the Commission, a surety bond payable to the Commission for the benefit of any person injured or damaged by (i) the promoter's failure to comply with any provision of this Article or any rules adopted by the Commission or (ii) the promoter's failure to fulfill the obligations of any contract ~~between or among licensees~~ related to the holding of a boxing event. The surety bond shall be issued in an amount to be no less than five thousand dollars ($5,000). The amount of the surety bond shall be negotiable upon the sole discretion of the Commission. All surety bonds shall be upon forms approved by the Secretary of Crime Control and Public Safety and supplied by the Commission."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM

Section 20.4. The Department of Crime Control and Public Safety shall report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 of each year on the operations and effectiveness of the National Guard Tarheel Challenge Program. The report should evaluate the program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent. The report shall also evaluate the Program's role in improving individual skills and employment potential for participants and shall include:

(1) The source of referrals for individuals participating in the Program;
(2) The summary of types of actions or offenses committed by the participants of the Program;
(3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants;
(4) The number of individuals who successfully complete the Program; and

(5) The number of participants who commit offenses after completing the Program.

Requested by: Representatives Easterling, Hardaway, Redwine, Justus, Senators Jordan, Plyler, Perdue, Odom

CRIME CONTROL PURCHASE METAL DETECTORS TO REDUCE CRIME IN SCHOOLS

Section 20.5.(a) The Department of Crime Control and Public Safety shall expend the sum of three hundred fifty thousand dollars ($350,000) for the 1999-2000 fiscal year to provide metal detectors for the public schools.

Each local board of education may apply for either a portable walk-through model for the local school administrative unit or a hand-held model for each school in the local school administrative unit.

Section 20.5.(b) In allocating these funds, the Secretary of Crime Control and Public Safety shall give highest priority to providing:

(1) A portable walk-through model to each local school administrative unit requesting one that does not have one, and

(2) A hand-held model for each school for which one is requested and that does not have one.

Section 20.5.(c) The Secretary of Crime Control and Public Safety shall allocate any remaining funds on a pro rata basis to provide:

(1) A portable walk-through model to each local school administrative unit requesting one that already has one, and

(2) A hand-held model for each school for which one is requested and that already has one.

PART XXI. OFFICE OF JUVENILE JUSTICE

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

ANNUAL EVALUATION OF JUVENILE JUSTICE COMMUNITY PROGRAMS AND MULTIPURPOSE GROUP HOMES

Section 21.(a) Section 11.51 of S.L. 1997-443 is repealed.

Section 21.(b) The Office of Juvenile Justice shall conduct an evaluation of wilderness camp programs, the Governor's One-on-One Programs, the On Track Program established in S.L. 1998-202, the Guard Response Alternate Sentencing Program established in S.L. 1998-202, and multipurpose group homes. In conducting the evaluation, the Office shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Office shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The Office shall report the results of the evaluation to the Chairs of the House and Senate Appropriations Committees and the Chairs of the

Subcommittees of Justice and Public Safety of the House and Senate Appropriations Committees by March 1 of each year.

Requested by: Representatives Easterling, Culpepper, Kinney, McCrary, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

SECURE GROUP HOME FOR FEMALE OFFENDERS

Section 21.1. Funds in the amount of one million one hundred twenty-seven thousand eight hundred fifty dollars ($1,127,850) appropriated in S.L. 1998-212 to the Department of Health and Human Services and reallocated to the Office of Juvenile Justice for construction of beds for female offenders at Gatling Detention Center shall be reallocated to construct an eight-bed secure group home for female offenders in Mecklenburg County and to upgrade the Gatling Detention Center to meet fire marshal standards.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

JUVENILE CRIME PREVENTION COUNCIL PARTICIPATION

Section 21.2. Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Office of Juvenile Justice shall certify annually through its local council to the Office of Juvenile Justice that funds received are not used to duplicate or supplant other programs within the county.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

S.O.S. ADMINISTRATIVE COST LIMITS

Section 21.3. Of the funds appropriated to the Office of Juvenile Justice in this act, not more than four hundred fifty thousand dollars ($450,000) for the 1999-2000 fiscal year and not more than four hundred fifty thousand dollars ($450,000) for the 2000-2001 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Office may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

STUDY STAFFING AT TRAINING SCHOOLS AND DETENTION CENTERS

Section 21.4. Of the funds appropriated in this act to the Office of Juvenile Justice for the 1999-2000 fiscal year, the Office may use up to seventy-five thousand dollars ($75,000) to contract with consultants for a study of staffing in training schools and detention

centers. The study shall consider the appropriate staffing patterns for the juvenile population of training schools and detention centers as a result of the goals and objectives for those facilities set forth in S.L. 1998-202, the Juvenile Justice Act. The study shall consider whether:

(1) Training schools and detention centers are staffed with the appropriate number of custodial staff and staff that administers treatment, education, and counseling to juveniles housed in the facilities;

(2) Staff of the training schools and detention centers has the appropriate classification, training, and experience to provide juveniles housed in the facilities with the required treatment and guidance; and

(3) Salary levels for current or proposed position classifications are appropriate.

The study shall include a review of the appropriate staffing patterns on each shift, the impact of previous or potential lawsuits or liability issues on staffing levels and types, an analysis of the current guidelines on staffing ratios, the accuracy of the staffing relief formula, and the effectiveness of the current systems for scheduling staff workdays and days off. The consultant shall consult with the Office of State Personnel, the Office of Juvenile Justice, and the Fiscal Research Division of the General Assembly in developing the study objectives and a work plan.

The final product shall include a report that addresses the issues stated in this section and a staffing plan by shift for each training school and detention center.

The Office of Juvenile Justice shall report the results and recommendations of the study to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on or before April 1, 2000.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

LOCAL GRANT REPORTING

Section 21.5. On or before October 1, 1999, and by May 1 each year thereafter, the Office of Juvenile Justice shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Office for local grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Office of Juvenile Justice. A written copy of the list and other information regarding the projects

shall also be sent to the Fiscal Research Division of the General Assembly.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

FUNDS FOR FAMILY COURTS, SUBSTANCE ABUSE PREVENTION, AND MULTIPURPOSE GROUP HOMES SHALL NOT REVERT

Section 21.6.(a) Funds appropriated to the Department of Health and Human Services for the 1998-1999 fiscal year and transferred to the Office of Juvenile Justice for the Substance Abuse Prevention Plan and the operation of multipurpose group homes shall not revert but shall remain available to the Office of Juvenile Justice for the 1999-2000 fiscal year.

Section 21.6.(b) Funds appropriated in S.L. 1998-212 for the family court pilot programs established in S.L. 1998-202 shall not revert but shall remain available to the Administrative Office of the Courts for the 1999-2000 fiscal year.

Section 21.6.(c) This section becomes effective June 30, 1999.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

TRANSFER OF POSITIONS FROM THE DEPARTMENT OF CORRECTION AND THE ADMINISTRATIVE OFFICE OF THE COURTS TO THE OFFICE OF JUVENILE JUSTICE

Section 21.7.(a) The Department of Correction is authorized to transfer the following administrative positions and their funding to the Office of Juvenile Justice to provide administrative support for the Office of Juvenile Justice:

(1) Executive Director-Criminal Justice Partnership Act: Position number 4550-0000-000-061.
(2) Accountant III: Position number 4520-0005-0002-050.
(3) Administrative Secretary III: Position number 4550-0000-0000-081.

Section 21.7.(b) The Administrative Office of the Courts is authorized to transfer the research and planning administrator position, position number 2203-1110-1150-543, to the Office of Juvenile Justice.

Section 21.7.(c) The transfers authorized pursuant to this section become effective July 1, 1999.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

JUVENILE JUSTICE INFORMATION SYSTEM REPORT

Section 21.8. The Criminal Justice Information Network Governing Board created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session shall annually evaluate the status of the juvenile justice information system created pursuant to the juvenile justice information plan established by S.L. 1998-202. The Criminal Justice Information Network Governing Board shall consult with the Department of Justice and the Office of Juvenile Justice in evaluating the system and in developing the report. The evaluation shall include a review of the progress or status of the development of:

(1) Each phase of the plan that is mandated to create the system pursuant to S.L. 1998-202;

(2) Identification of management information that will be collected and tracked; and

(3) Identification of the State agency programs that will be part of the system.

The evaluation shall also (i) identify all expenditures to date, including the source of funding and the purpose of the expenditures, and (ii) provide an updated estimate of the short- and long-range cost of the system.

The Criminal Justice Information Network shall report by April 1 each year to the Chairs of the House and Senate Appropriations Committees and to the Fiscal Research Division of the General Assembly on the status of the juvenile justice information system and on any findings, recommendations, and legislative proposals related to the plan.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Ballance, Moore, Plyler, Perdue, Odom

PROGRAMS AND FUNDS TRANSFERRED TO THE OFFICE OF JUVENILE JUSTICE

Section 21.9.(a) Program responsibility and funding for Project Challenge North Carolina, Inc., the teen court programs funded through the budget of the Administrative Office of the Courts, and the Juvenile Assessment Center Project of District Court District 12 are hereby transferred from the Judicial Department to the Office of Juvenile Justice.

Section 21.9.(b) Project Challenge North Carolina, Inc., shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on the source of referrals for juveniles, the types of offenses committed by juveniles participating in the program, the amount of time those juveniles spend in the program, the number of juveniles who successfully complete the program, and the number of

juveniles who commit additional offenses after completing the program.

Section 21.9.(c) Funds appropriated to the Judicial Department for the 1998-99 fiscal year for Project Challenge North Carolina, Inc., the teen court programs, and the Juvenile Assessment Center Project of District Court District 12 and transferred in this act to the Office of Juvenile Justice shall not revert at the end of the fiscal year but shall remain available to the Office of Juvenile Justice during the 1999-2000 fiscal year.

Section 21.9.(d) The Office of Juvenile Justice shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the Juvenile Assessment Center and teen courts by April 1 each year. The report on the Juvenile Assessment Center shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts.

Section 21.9.(e) This section becomes effective June 30, 1999.

Requested by: Representatives Hardaway, Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Plyler, Perdue, Odom, Jordan, Ballance, Moore

FUNDS FOR LOCAL ORGANIZATIONS OF THE BOYS AND GIRLS CLUB

Section 21.10.(a) Of the funds appropriated in this act to the Office of Juvenile Justice for the 1999-2000 fiscal year, the sum of five hundred thousand dollars ($500,000) shall be used to establish a pilot program to grant funds to local organizations of the Boys and Girls Club pursuant to subsection (b) of this section.

Section 21.10.(b) The Office of Juvenile Justice shall develop a pilot program that grants funds to the local organizations of the Boys and Girls Club in the 10 counties with the highest rate of training school commitments in the 1997-98 fiscal year. The local organization shall provide funds to match the State funds granted pursuant to this section. In developing the program, the Office shall establish criteria for receiving a grant pursuant to this section and shall develop a funding strategy to encourage local organizations to provide resources and services to meet the physical, emotional, and educational needs of juveniles who are court-involved or who are at risk of becoming delinquent or undisciplined, and to provide resources and services to their families. The Office shall consider requiring local organizations that receive grant funds pursuant to this section to:

(1) Encourage juveniles to become involved in community programs that instill in juveniles pride in their communities

and that help juveniles develop self-respect and the skills needed for them to be productive, responsible members of their communities;

(2) Coordinate with the local schools and State and local law enforcement to educate juveniles regarding the justice system and to promote respect for authority and an appreciation of societal laws and mores; and

(3) Provide guidance to and positive role models for juveniles.

Section 21.10.(c) The Office of Juvenile Justice shall report by April 1, 2000, to the Joint Legislative Commission on Governmental Operations, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the operations and the effectiveness of the program, including information on the number of juveniles served.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

Section 21.11. Funds appropriated in this act to the Office of Juvenile Justice for the 1999-2000 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission of the Department of Crime Control and Public Safety shall consult with the Office of Juvenile Justice regarding the criteria for awarding federal funds. The Office of State Budget and Management and the Governor's Crime Commission shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 1999-2000 fiscal year, the amount of funds anticipated for the 2000-2001 fiscal year, and the allocation of funds by program and purpose.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

REPORT ON SITE SELECTION OF TRAINING SCHOOL AND DETENTION BEDS

Section 21.12. The Office of Juvenile Justice shall report to the Joint Legislative Commission on Governmental Operations prior to finalizing site selection for training school beds and detention beds for which funds are appropriated in this act and training school or detention beds to be built with federal funds. Consideration shall be given to the renovation of existing GPAC units for new training school

and detention beds. In selecting sites, the Office shall consider the need for additional beds in the particular area of the State.

Requested by: Representatives Redwine, Wright, Easterling, Hardaway, Culpepper, Kinney, McCrary, Senators Jordan, Soles, Ballance, Moore, Plyler, Perdue, Odom

ESTABLISH A PILOT PROGRAM FOR A MULTIFUNCTIONAL JUVENILE FACILITY

Section 21.13.(a) Establishment of Pilot Program and Authorization to Contract. -- If the Office of Juvenile Justice determines that it would most economically and effectively promote the purposes served by the Office, it shall establish a pilot program in Eastern North Carolina to provide juveniles involved in the juvenile justice system with custodial, rehabilitation, treatment, and program services, including substance abuse and sex offender services. In establishing the pilot, the Office shall contract, as provided by law, with a private for-profit or nonprofit firm for the construction and operation of such a multifunctional juvenile facility totaling up to 100 beds. The facility shall be constructed in accordance with plans and specifications developed by the Office of Juvenile Justice, the Department of Administration, and the Department of Health and Human Services. The facility shall be able to be retrofitted within three to four months to provide the State with either training school beds or detention beds.

If local interest and commitment by surrounding communities exist, the facility shall have the capacity to provide community-based programs, including day reporting centers, transitional group homes, emergency shelter care, alternative education programs, and outpatient family counseling and substance abuse treatment.

Section 21.13.(b) Term of Contract. -- Any contract entered under the authority of this section shall be for a period not to exceed 10 years and shall be renewable from time to time for a period not to exceed 10 years.

Section 21.13.(c) Awarding of Contract. -- The Director of the Office of Juvenile Justice, in consultation with the Chairs of the Appropriations Committees of the Senate and House of Representatives, shall make recommendations to the State Purchasing Officer on the final award decision. The State Purchasing Officer shall make the final award decision, and the contract shall then be subject to the approval of the Council of State after consultation with the Joint Legislative Commission on Governmental Operations.

Section 21.13.(d) Option to Purchase. -- The contract made under the authority of this section may provide the State with an option to purchase the facility according to a purchase schedule determined by the Office of Juvenile Justice in consultation with the State Property Office of the Department of Administration.

Section 21.13.(e) State Overview of Construction. -- The contract made under the authority of this section shall state that plans and specifications for private facilities shall be furnished to and

reviewed by the Office of State Construction. The Office of State Construction shall inspect and review the project during construction to ensure that the project is suitable for habitation and to determine whether the project would be suitable for future acquisition by the State.

Except as provided in subsection (f) of this section, the private facility authorized under this section shall be designed, built, and operated in accordance with applicable State laws, court orders, fire safety codes, and local regulations, policies, and procedures of the Office of Juvenile Justice, and all State laws applicable to juvenile facilities. The Director of the Office of Juvenile Justice and the Secretary of the Department of Health and Human Services shall review and approve the design and construction of the facility before housing juvenile offenders in the facility.

Section 21.13.(f) Certificate of Need. -- The private entity with which the Office contracts under this section may construct and operate a chemical dependency or substance abuse facility to provide inpatient chemical dependency or substance abuse services to juveniles involved in the juvenile justice system without a certificate of need from the Department of Health and Human Services pursuant to Article 9 of Chapter 131E of the General Statutes. The facility shall not provide services or treatment to persons other than juveniles involved in the juvenile justice system unless the facility obtains a certificate of need pursuant to Article 9 of Chapter 131E of the General Statutes.

Section 21.13.(g) Liability Insurance. -- The contract authorized pursuant to this section shall require a minimum of ten million dollars ($10,000,000) of occurrence-based liability insurance and shall hold the State harmless and provide reimbursement for all liability arising out of actions caused by operations and employees of the private facility.

Section 21.13.(h) Training of Employees. -- Custodial officials employed by a private facility are agents of the Director of the Office of Juvenile Justice and shall comply with existing statutes, rules, policies, and procedures that govern the custody and care of juveniles under the supervision of the Office. The private entity with which the Office contracts under this section shall have written disciplinary and grievance policies approved by the Office of Juvenile Justice. The persons employed by the private entity operating the facility shall receive training substantially the same as the training provided to employees of the Office of Juvenile Justice performing the same duties. Notwithstanding subsection (e) of this section, G.S. 115C-325 does not apply to employees of the private facility providing educational services.

Section 21.13.(i) State Authority Over Offenders. -- The Office of Juvenile Justice may, in the discretion of the Director, provide services to and house juveniles who are involved in the North Carolina juvenile justice system in a facility constructed and operated by a private entity. Juvenile offenders housed in private facilities shall

be governed by the State laws applicable to juvenile offenders housed in State facilities, including educational requirements mandated by State and federal law.

Section 21.13.(j) Report. -- The Office of Juvenile Justice shall make a written report no later than March 1, 2000, on the status of the pilot program and shall evaluate the program annually and report on the findings of the evaluations by March 1, 2001, and January 1, 2002. The reports shall be submitted to the Chairs of the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations.

Section 21.13.(k) Appropriation. -- Of the funds appropriated in this act to the Office of Juvenile Justice, the sum of two million five hundred thousand dollars ($2,500,000) for the 2000-2001 fiscal year shall be used to purchase custodial, rehabilitation, treatment, and program services, including substance abuse and sex offender services.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom

CAREER STATUS FOR FORMER JUDICIAL EMPLOYEES TRANSFERRED TO THE OFFICE OF JUVENILE JUSTICE

Section 21.14. For the purposes of Chapter 126 of the General Statutes, employees in positions transferred from the Judicial Department to the Office of Juvenile Justice during the 1998-99 fiscal year or as provided for in this act, and who have been continuously employed by the State prior to the date of transfer, shall receive credit for those months of service. Upon 24 months of continuous employment in a permanent position with the State, an employee under this section shall become a career State employee.

PART XXII. GENERAL ASSEMBLY

Requested by: Representatives Tolson, Jeffus, Thompson, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Shaw of Cumberland, Reeves, Plyler, Perdue, Odom

JOINT SELECT COMMITTEE ON INFORMATION TECHNOLOGY

Section 22.(a) Chapter 120 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 26.

"Joint Select Committee on Information Technology.

"*§ 120-230. Creation and purpose of the Joint Select Committee on Information Technology.*

There is established the Joint Select Committee on Information Technology. The Committee shall review current information technology that impacts public policy, including electronic data processing and telecommunications, software technology, and information processing. The goals and objectives of the Committee

shall be to develop electronic commerce in the State and to coordinate the use of information technology by State agencies in a manner that assures that the citizens of the State receive quality services from all State agencies and that the needs of the citizens are met in an efficient and effective manner.

"*§ 120-231. Committee duties; reports.*

(a) The Joint Select Committee on Information Technology may:

(1) Evaluate the current technological infrastructure of State government and information systems use and needs in State government and determine potential demands for additional information staff, equipment, software, data communications, and consulting services in State government during the next 10 years. The evaluation may include an assessment of ways technological infrastructure and information systems use may be leveraged to improve State efficiency and services to the citizens of the State, including an enterprise-wide infrastructure and data architecture.

(2) Evaluate information technology governance, policy, and management practices, including policies and practices related to personnel and acquisition issues, on both a statewide and project level.

(3) Study, evaluate, and recommend changes to the North Carolina General Statutes relating to electronic commerce.

(4) Study, evaluate, and recommend action regarding reports received by the Committee.

(5) Study, evaluate, and recommend any changes proposed for future development of the information highway system of the State.

(b) The Committee may consult with the Information Resource Management Commission on statewide technology strategies and initiatives and review all legislative proposals and other recommendations of the Information Resource Management Commission.

(c) The Committee shall report by March 1 of each year to the Appropriations Committees of the Senate and the House of Representatives concerning the Committee's activities and findings and any recommendations for statutory changes.

"*§ 120-232. Committee membership; terms; organization; vacancies.*

(a) The Committee shall consist of 14 members as follows:

(1) Four members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate.

(2) Four members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of Representatives.

(3) Three members of the public, appointed by the President Pro Tempore of the Senate.

(4) Three members of the public, appointed by the Speaker of the House of Representatives.

The members appointed to the Committee from the public shall be chosen from among individuals who have the ability and commitment to promote and fulfill the purposes of the Committee, including individuals who have expertise in the field of computer technology or commercial transactions.

(b) Members of the Committee shall serve terms of two years beginning on August 15 of each odd-numbered year, with no prohibition against being reappointed, except initial appointments shall be for terms as follows:

(1) The public members shall serve terms of three years.

(2) The members who are members of the General Assembly shall serve terms of two years.

Initial terms shall commence on August 15, 1999.

(c) Members who are elected officials may complete a term of service on the Committee even if they do not seek reelection or are not reelected, but resignation or removal from service constitutes resignation or removal from service on the Committee.

(d) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each select a legislative member from their appointees to serve as cochair of the Committee.

(e) The Committee shall meet at least once a quarter and may meet at other times upon the call of the cochairs. A majority of the members of the Committee shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Committee shall be necessary for action to be taken by the Committee.

(f) All members shall serve at the will of their appointing officer. A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"§ 120-233. Assistance; per diem; subsistence; and travel allowances.

(a) The Committee may contract for consulting services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Committee. The professional staff shall include the appropriate staff from the Fiscal Research, Research, Legislative Drafting, and Information Systems Divisions of the Legislative Services Office of the General Assembly. Clerical staff shall be furnished to the Committee through the offices of the Senate and the House of Representatives Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Committee. The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

(b) Members of the Committee shall receive per diem, subsistence, and travel allowances as follows:

(1) Committee members who are members of the General Assembly, at the rate established in G.S. 120-3.1.

(2) Committee members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6.

(3) All other Committee members, at the rate established in G.S. 138-5.

"*§ 120-234. Committee authority.*

The Committee may obtain information and data from all State officers, agents, agencies, and departments, while in discharge of its duties, under G.S. 120-19, as if it were a committee of the General Assembly. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Committee as if it were a committee of the General Assembly. Any cost of providing information to the Committee not covered by G.S. 120-19.3 may be reimbursed by the Committee from funds appropriated to it for its continuing study.

"*§ 120-235. Committee subcommittees; noncommittee membership.*

The Committee cochairs may establish subcommittees for the purpose of making special studies pursuant to its duties, and may appoint noncommittee members to serve on each subcommittee as resource persons. Resource persons shall be voting members of the subcommittee and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6."

Section 22.(b) Of the funds appropriated in this act to the General Assembly the sum of fifty thousand dollars ($50,000) for the 1999-2000 fiscal year shall be allocated by the Legislative Services Commission to implement this act.

Requested by: Representatives Jeffus, Wainwright, Thompson, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Shaw of Cumberland, Reeves, Plyler, Perdue, Odom

INFORMATION TECHNOLOGY COST REPORTING TO THE GENERAL ASSEMBLY

Section 22.1.(a) On or before January 1, 2000, each executive branch agency, other than occupational licensing boards, and the Administrative Office of the Courts shall report to the Information Resource Management Commission an estimate for the 1999-2000 fiscal year of its spending and anticipated spending on information technology costs, and the number of its permanent, State-funded information positions, as defined by the Information Resource Management Commission. On or before February 1, 2000, the Commission shall report its summary of these estimates required under this subsection to the Senate and House Standing Committees on Information Technology, and to the Directors of the Information Services and Fiscal Research Divisions of the General Assembly.

Section 22.1.(b) On or before April 10, 2000, and quarterly thereafter, each executive branch agency, other than occupational licensing boards, and the Administrative Office of the Courts shall

report for the previous quarter on the agency's or the Administrative Office of the Courts' actual information technology costs, and the number of permanent, State-funded information positions, as defined by the Information Resource Management Commission, in the agency or the Administrative Office of the Courts.

Section 22.1.(c) On or before April 20, 2000, and quarterly thereafter, the Information Resource Management Commission shall report to the House and Senate Information Technology Committees on the previous quarter's information technology costs and the number of permanent, State-funded information technology positions of executive branch agencies, other than occupational licensing boards, and the Administrative Office of the Courts. The Commission shall include in the quarterly reports any suggestions it may have for improved information services to executive branch agencies or the Administrative Office of the Courts. Copies of the reports by the agencies and the Administrative Office of the Courts and of the summary report by the Information Resource Management Commission shall be provided to the Directors of the Information Systems and Fiscal Research Divisions of the General Assembly.

Section 22.1.(d) On or before October 1, 1999, the Information Resource Management Commission shall establish, after consultation with the Senate and House Standing Committees on Information Technology, report formats and contents guidelines to be used by agencies and the Administrative Office of the Courts to report information technology costs and the number of information technology positions required by this section. The reports required by this section comply with the State accounting system's object codes.

Section 22.1.(e) For the purposes of this section, "information technology costs" means all expenses directly related to data processing and telecommunications, including expenses incurred for permanent, State-funded technical positions, as defined by the Information Resource Management Commission.

Section 22.1.(f) This section expires April 20, 2001.

Requested by: Representatives Jeffus, Wainwright, Thompson, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Shaw of Cumberland, Reeves, Plyler, Perdue, Odom

TECHNOLOGICAL INFRASTRUCTURE STUDY

Section 22.2. The Joint Select Committee on Information Technology, established pursuant to Section 22 of this act, shall study, evaluate, and recommend changes in the current technological infrastructure of the Department of the Secretary of State and the Department of the State Treasurer. The Committee shall:

(1) Consider the feasibility and advisability of moving the Secretary of State's applications from the ITS mainframe to in-house servers and allowing the Secretary of State to develop and support its own computer applications;

(2) Consider the need to replace, update, or modify the mainframe system within the Department of the State

Treasurer and existing banking system which supports the State Treasurer's Banking Operations Division; and

(3) Study, evaluate, and recommend the level of audit staff needed in the Office of the State Auditor to provide for adequate audit coverage of the computer applications and installation in State government.

The Committee shall report by April 1, 2000, to the Appropriations Committees of the Senate and House of Representatives.

PART XXIII. DEPARTMENT OF STATE TREASURER

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

DUES DEDUCTION FOR RETIREE ORGANIZATIONS AUTHORIZED

Section 23. G.S. 135-18.8 reads as rewritten:

"*§ 135-18.8. Deduction for payments to certain employees' associations allowed.*

Any member who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the member's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the member. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

PART XXIV. DEPARTMENT OF ADMINISTRATION

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

PROCUREMENT CARD PILOT PROGRAM EXTENSION/SAVINGS

Section 24.(a) Section 20.3(a) of S.L. 1998-212 reads as rewritten:

"(a) Except as provided by this section, no State agency, community college, constituent institution of The University of North Carolina, or local school administrative unit may use procurement cards for the purchase of equipment or supplies before ~~March 31, 1999.~~ August 1, 2000."

Section 24.(b) The Department of Administration, Division of Purchase and Contract, and the Office of State Budget and Management shall develop a system for identifying the savings realized by governmental entities by the use of the Procurement Card Pilot Program. Each entity participating in the pilot program shall identify these savings and report on the amount and nature of these savings on

a quarterly basis to the Office of State Budget and Management and to the Fiscal Research Division of the General Assembly.

Section 24.(c) Section 24.(a) becomes effective March 30, 1999.

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

COST-BENEFIT ANALYSIS OF CONSTRUCTING STATE FACILITIES INSTEAD OF LEASING PROPERTY FOR STATE OPERATIONS

Section 24.1. The State Property Office and the State Construction Office, in consultation with the Office of State Budget and Management, shall conduct a cost benefit analysis of constructing new State-owned facilities instead of leasing property for State government operations. The analysis shall consider:

(1) Factors relating to the cost of State-owned facilities including (i) the cost and availability of land, (ii) design, planning, and construction costs in Raleigh and throughout the State, (iii) projected ongoing operation and maintenance costs, and (iv) projected repairs and renovation costs; and

(2) Factors relating to the cost of leased space including (i) lease rates within Raleigh and throughout the State, (ii) availability of property for lease within Raleigh and throughout the State, taking into account the various types of space needed by State agencies including office, laboratory, warehouse, storage, conference and meeting space, and other types of property, (iii) renewal options and costs, (iv) utility, janitorial, and other operating expenses, and (v) relocation expenses, including moving and upfit expenses.

The State Property Office and the State Construction Office shall report on the results of the cost-benefit analysis to the Joint Legislative Commission on Governmental Operations prior to March 30, 2000.

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

ESTABLISH DOMESTIC VIOLENCE COMMISSION

Section 24.2.(a) Of the funds appropriated in this act to the Department of Administration for the 1999-2000 fiscal year, the sum of one hundred fifty thousand dollars ($150,000) shall be used for an executive director, an administrative assistant, and operating costs of the Domestic Violence Commission.

Section 24.2.(b) Article 9 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 10C. Domestic Violence Commission.

"*§ 143B-394.15. Commission established; purpose; membership; transaction of business.*

(a) Establishment. -- There is established the Domestic Violence Commission. The Commission shall be located within the Department

of Administration for organizational, budgetary, and administrative purposes.

(b) Purpose. -- The purpose of the Commission is to (i) assess statewide needs related to domestic violence, (ii) assure that necessary services, policies, and programs are provided to those in need, and (iii) coordinate and collaborate with the North Carolina Council For Women in strengthening the existing domestic violence programs which have been established pursuant to G.S. 50B-9 and are funded through the Domestic Violence Center Fund and in establishing new domestic violence programs.

(c) Membership. -- The Commission shall consist of 39 members, who reflect the geographic and cultural regions of the State, as follows:

(1) Nine persons appointed by the Governor, one of whom is a clerk of superior court; one of whom is an academician who is knowledgeable about domestic violence trends and treatment; one of whom is a member of the medical community; one of whom is a United States Attorney for the State of North Carolina or that person's designee; one of whom is a member of the North Carolina Bar Association who has studied domestic violence issues; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; one of whom is a member of the North Carolina Coalition Against Domestic Violence; one of whom is a former victim of domestic violence; and one of whom is a member of the public at large.

(2) Nine persons appointed by the General Assembly, upon recommendation of the President Pro Tempore of the Senate, one of whom is a member of the Senate; one of whom is a district court judge; one of whom is a district attorney or assistant district attorney; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom is a county manager; one of whom is a representative of a community legal services agency who works with domestic violence victims; one of whom is a representative of the linguistic and cultural minority communities; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; and one of whom is a member of the public at large.

(3) Nine persons appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, one of whom is a member of the House of Representatives; one of whom is a magistrate; one of whom is a member of the business community; one of whom is a district court judge; one of whom is a representative of a victims' service program eligible for funding by the

Governor's Crime Commission or the North Carolina Council for Women; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom provides offender treatment and is approved by the North Carolina Council for Women; one of whom is a representative of the linguistic and cultural minority communities; and one of whom is a public member.

(4) The following persons or their designees, ex officio:

a. The Governor.
b. The Lieutenant Governor.
c. The Attorney General.
d. The Secretary of the Department of Administration.
e. The Secretary of the Department of Crime Control and Public Safety.
f. The Superintendent of Public Instruction.
g. The Secretary of the Department of Correction.
h. The Secretary of the Department of Health and Human Services.
i. The Director of the Office of State Personnel.
j. The Executive Director of the North Carolina Council for Women.
k. The Director of the Institute of Government.
l. The Chairman of the Governor's Crime Commission.

(d) Terms. -- Members shall serve for two-year terms, with no prohibition against being reappointed, except initial appointments shall be for terms as follows:

(1) The Governor shall initially appoint five members for terms of two years and four members for terms of three years.
(2) The President Pro Tempore of the Senate shall initially appoint five members for terms of two years and four members for terms of three years.
(3) The Speaker of the House of Representatives shall initially appoint five members for terms of two years and four members for terms of three years.

Initial terms shall commence on September 1, 1999.

(e) Chair. -- The chair shall be appointed biennially by the Governor from among the membership of the Commission. The initial term shall commence on September 1, 1999.

(f) Vacancies. -- A vacancy on the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(g) Compensation. -- The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable. When

approved by the Commission, members may be reimbursed for subsistence and travel expenses in excess of the statutory amount.

(h) Removal. -- Members may be removed in accordance with G.S. 143B-13 as if that section applied to this Article.

(i) Meetings. -- The chair shall convene the Commission. Meetings shall be held as often as necessary, but not less than four times a year.

(j) Quorum. -- A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

(k) Office Space. -- The Department of Administration shall provide office space in Raleigh for use as offices by the Domestic Violence Commission, and the Department of Administration shall receive no reimbursement from the Commission for the use of the property during the life of the Commission.

"*§ 143B-394.16. Powers and duties of the Commission; reports.*

(a) Powers and Duties. -- The Commission shall have the following powers and duties:

(1) As recommended in the January 15, 1999, final report of the Governor's Task Force on Domestic Violence, to develop and recommend to the General Assembly the 'Safe Families Act' and to promote adequate funding to promote victim safety and accountability of perpetrators.

(2) To develop and recommend domestic violence training initiatives for law enforcement and judicial personnel and for all persons who provide treatment and services to domestic violence victims.

(3) To develop training initiatives for and make recommendations and provide information and advice to State agencies in the areas of child protection, education, employer/employee relations, criminal justice, and subsidized housing.

(4) To provide information and advice to any private entities that request assistance in providing services and support to domestic violence victims.

(5) To design, coordinate, and oversee a statewide public awareness campaign.

(6) To design and coordinate improved data collection efforts for domestic violence crimes and acts in the State.

(7) To research, develop, and recommend proposals of how best to meet the needs of domestic violence victims and to prevent domestic violence in the State.

(b) Report. -- The Commission shall report its findings and recommendations, including any legislative or administrative proposals, to the General Assembly no later than April 1 each year."

Section 24.2.(c) If it recommends the adoption in North Carolina of a "Safe Families Act", the Domestic Violence Commission

shall report its legislative proposal to the General Assembly on or before April 1, 2000.

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

CONSOLIDATED MAIL SERVICE FACILITY/SAVINGS RESERVE

Section 24.3. The Office of State Budget and Management shall identify all savings resulting from the establishment of the Consolidated Mail Service Facility under the management of the Department of Administration. All savings in excess of the one million dollars ($1,000,000) included in the Governor's recommended budget adjustments for the 1999-2000 fiscal year and the one million five hundred thousand dollars ($1,500,000) included in the Governor's recommended budget adjustments for the 2000-2001 fiscal year shall be placed in a special reserve in the Office of State Budget and Management. The funds in this reserve shall be spent only as authorized by the General Assembly.

The Department of Administration and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on the changes in positions resulting from the establishment of the Consolidated Mail Service Facility. The report shall include (i) a list of positions that were transferred from other agencies, (ii) the salary for each such position prior to and subsequent to the transfer and whether the employee was transferred with the position, (iii) the number and type of new positions created including the salary, and (iv) the number and type of positions that were abolished, including the salaries and the status of the employees in the positions. The Department of Administration and the Office of State Budget and Management shall also report on the expenditures, including any capital expenditures, related to the establishment of the Consolidated Mail Service Facility. The reports on positions and expenditures shall be made prior to January 1, 2000.

PART XXV. OFFICE OF STATE CONTROLLER

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

EXTEND PILOT PROGRAM ON REPORTING ON COLLECTION OF BAD DEBTS BY STATE AGENCIES

Section 25.(a) In addition to its review under Section 26 of S.L. 1998-212, the Office of State Controller shall conduct a review of other material accounts receivable related to the type of bad debt in order to determine actions taken to collect and the likelihood of the debt being collected, and to identify specific problem areas and additional bad debt volume that may support the implementation of a Bad Debt Collection Clearinghouse Pilot Program.

Section 25.(b) The Office of State Controller shall establish a procedure by which State agencies or institutions with a material

amount of accounts receivable shall report on collection of bad debts. The pilot program is intended to concentrate on agencies that have a large amount of bad debts, in order to determine the extent to which those debts may be better collected both in those agencies and in the whole of State government.

Section 25.(c) The Office of State Controller shall study the feasibility of establishing a one-year Bad Debt Collection Clearinghouse Pilot Program. The study shall be restricted to approximately one hundred million dollars ($100,000,000) in bad debts representing appropriate types of accounts receivable. The study shall address the use of one or more private collection agencies and whether the potential pilot should be administered jointly by the Department of Revenue and the Office of State Controller. The study shall also address local government participation in the pilot program.

Section 25.(d) The Office of State Controller shall report the results of the extended pilot study to the General Assembly not later than May 1, 2000, along with recommendations on changes in law or procedure to better collect the bad debts including the feasibility of implementing a Bad Debt Collection Clearinghouse Pilot Program.

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

NCAS SUPPORT, AR/OVERPAYMENTS PROJECT

Section 25.1.(a) During the 1999-2000 fiscal year there is transferred from the Special Reserve Account 24172 to the Office of the State Controller, the sum of two million five hundred thousand dollars ($2,500,000) for the 1999-2000 fiscal year. Receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172. These funds are to be used to cover expenditures for the following:

(1) For the 1999-2000 fiscal year, five hundred fifty thousand dollars ($550,000) of the funds transferred from the Special Reserve Account shall be used for data processing costs.

(2) Functional and technical contractual services to continue the efforts related to the implementation of best business practices associated with accounts receivable processing and bad debt collection, as required by G.S. 147-86.22(a).

(3) Functional and technical contractual services and related software to develop and implement electronic commerce business initiatives.

Section 25.1.(b) No funds shall be allocated or expended for any of the purposes listed in subdivision (2) or (3) of subsection (a) of this section until all funds have been expended under subdivision (1) of that subsection.

Section 25.1.(c) The Office of the State Controller may not obligate more funds than are generated from the revenue of the Overpayments Project to support either the NCAS or the new accounts receivable projects.

Section 25.1.(d) Any unobligated funds in the Special Reserve Account are subject to appropriation by the General Assembly in the 2000 Short Session.

Section 25.1.(e) The State Controller shall report monthly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account, and the disbursement of that revenue for items listed in subsection (a) of this section.

PART XXVI. DEPARTMENT OF CULTURAL RESOURCES

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

A.A. CUNNINGHAM AIR MUSEUM

Section 26.(a) Funds appropriated to the A.A. Cunningham Air Museum Foundation, Inc., shall not revert at the end of the 1998-99 fiscal year but shall remain available for expenditure by the City of Havelock for the display of aircraft and other memorabilia reflecting the history of the United States Marine Corps. The expenditure of these funds is not subject to a matching requirement.

Section 26.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Redwine, Jeffus, Wainwright, Easterling, Hardaway, Senators Soles, Plyler, Perdue, Odom

MARITIME MUSEUM

Section 26.1.(a) Chapter 121 of the General Statutes is amended by adding a new section to read:

"*§ 121-7.2. Maritime museum; branch museum.*

The Department of Cultural Resources shall assume from the Southport Maritime Museum, Inc., the administration of the Southport Maritime Museum in Brunswick County and shall operate it as a branch of the North Carolina Maritime Museum."

Section 26.1.(b) This section is effective only if the Southport Maritime Museum, Inc., transfers and conveys to the State all its assets.

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

PROCEDURE FOR AWARD OF CULTURAL RESOURCES GRANTS

Section 26.2. Of the funds appropriated to the Department of Cultural Resources, the sum of eight million dollars ($8,000,000) for the 1999-2000 fiscal year shall be used for grants to nonprofit organizations or local governmental entities throughout the State for

cultural, historical, or artistic organizations, for cultural, historical, or artistic projects, including visiting artist programs, and for museums.

In awarding grants, the Secretary shall consider the merits of the project, the cultural, historical, or artistic significance of the project, the benefit to the State and local communities of the project, and the cost of the project. These grants are not subject to review by the Historical Commission. Grants shall not exceed one hundred thousand dollars ($100,000) per project.

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

DEPARTMENT OF CULTURAL RESOURCES MAY RETAIN HISTORICAL PUBLICATIONS RECEIPTS

Section 26.3. The Historical Publications Section, Division of Archives and History, Department of Cultural Resources, may retain the receipts, including over-realized receipts, from the sale of its publications during each year of the 1999-2001 biennium. The receipts from the sale of those publications retained by the Historical Publications Section shall not revert but shall be used to reprint the publications.

Requested by: Representatives Jeffus, Wainwright, Easterling, Hardaway, Redwine, Baddour, Senators Warren, Lucas, Plyler, Perdue, Odom

GRASSROOTS ARTS PROGRAM

Section 26.4. Of the funds appropriated to the Division of Arts Council, Department of Cultural Resources, for the Grassroots Arts Program, the sum of two hundred thousand dollars ($200,000) for the 1999-2000 fiscal year shall be allocated equally among the 100 counties for grassroots arts programs. The remaining funds shall be distributed in compliance with G.S. 143B-122.

PART XXVI-A. GENERAL GOVERNMENT

Requested by: Representatives Jeffus, Wainwright, Thompson, Easterling, Hardaway, Redwine, Senators Warren, Lucas, Shaw of Cumberland, Plyler, Perdue, Odom

STUDY USE OF INTERNET FOR AGENCY PUBLICATIONS

Section 26A.(a) Each of the State agencies listed in subsection (b) of this section shall review its printing and publication requirements and schedules and develop a plan to reduce the cost of printing, publishing, and distributing agency information and materials, including documents, reports, and other publications by using computer technology and the internet, in particular, to distribute information and materials to the public. In developing the plan, each State agency shall review the statutory and regulatory requirements of the agency with regard to publishing and distributing information to the public and make recommendations on any statutory revisions needed to publish and distribute agency information over the internet

or by other computer-related means. Each agency shall submit a written report to the Fiscal Research Division of the General Assembly by April 1, 2000.

Section 26A.(b) This section applies to the the Office of the Governor, the Office of the Lieutenant Governor, the Department of Administration, the Office of the State Auditor, the Board of Elections, the Department of Insurance, the Office of the Secretary of State, the Office of the Treasurer, the Office of Administrative Hearings, the Office of the State Controller, the Department of Cultural Resources, the General Assembly, the Office of State Personnel, the Department of Revenue, and the Rules Review Commission.

PART XXVII. DEPARTMENT OF TRANSPORTATION

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

Section 27.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 2001-2002	$1,237.2 million
FY 2002-2003	$1,280.0 million
FY 2003-2004	$1,317.0 million
FY 2004-2005	$1,359.6 million

The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

FY 2001-2002	$940.2 million
FY 2002-2003	$975.2 million
FY 2003-2004	$1,009.5 million
FY 2004-2005	$1,045.3 million.

Section 27.(b) Section 27.4 of S.L. 1998-212 is repealed.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

DISCONTINUE BOND RETIREMENT TRANSFER FROM HIGHWAY FUND TO HIGHWAY TRUST FUND FOR BIENNIUM

Section 27.1. G.S. 136-176(a)(4) and G.S. 136-183 are suspended from July 1, 1999, to June 30, 2001.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

BLUE RIBBON TRANSPORTATION FINANCE STUDY COMMISSION

Section 27.2.(a) Commission Established. -- There is established a Blue Ribbon Transportation Finance Study Commission.

Section 27.2.(b) Membership. -- The Commission shall be composed of 15 members as follows:

(1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Four members of the Senate appointed by the President Pro Tempore of the Senate.

(3) Three members of the public appointed by the Governor, none of whom shall be State officials, and two of whom shall have expertise in transportation matters.

(4) Two members of the public appointed by the Speaker of the House of Representatives, one of whom shall be a municipal-elected official, and one of whom shall have experience in business and transportation matters.

(5) Two members of the public appointed by the President Pro Tempore of the Senate, one of whom shall be an elected county official, and one of whom shall have experience in business and transportation matters.

Any persons appointed pursuant to Section 27.15 of S.L. 1998-212 shall continue as members of this Study Commission.

Section 27.2.(c) Secretary of Transportation. -- The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

Section 27.2.(d) Duties of Commission. -- The Commission shall study the following matters related to transportation finance:

(1) The Highway Trust Fund Act of 1989. -- The Commission shall review the current law and recommend any revisions that may be necessary, based on the 10-year history of the fund and the current transportation needs of the State.

(2) Current revenue sources. -- The Commission shall review all current revenue sources that support State transportation programs and recommend changes, additions, or deletions based on projected needs for the next 25 years.

(3) Transportation system maintenance. -- The Commission shall review current financing of transportation system maintenance and recommend changes to accommodate maintenance of new construction and increased traffic volume.

(4) Public transportation. -- The Commission shall evaluate funding public transportation with dedicated sources of funds. The Commission's recommendation shall include specific sources and amounts of any dedicated funds, if recommended.

(5) Highway Fund transfers. -- Transfers from the Highway Fund to other State agencies, including whether or not those funds would more appropriately come from the General Fund.

(6) Transportation spending. -- Proposals for (i) separate funding allocations for roads that impact large-scale economic development projects, including projects that would create new industries, (ii) separate funding allocations for major highways that impact no fewer than two funding

regions, and (iii) methods to accommodate these spending proposals in the equity formula.

(7) Other transportation financing issues. -- The Commission may study any other transportation finance-related issue approved by the cochairs or recommended by the Secretary of Transportation and approved by the cochairs.

Section 27.2.(e) Vacancies. -- Any vacancy on the Commission shall be filled by the appointing authority.

Section 27.2.(f) Cochairs. -- Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be eight members.

Section 27.2.(g) Expenses of Members. -- Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

Section 27.2.(h) Staff. -- Adequate staff shall be provided to the Commission by the Legislative Services Office.

Section 27.2.(i) Consultants. -- The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

Section 27.2.(j) Meetings During Legislative Session. -- The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

Section 27.2.(k) Meeting Location. -- The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

Section 27.2.(l) Report. -- The Commission shall submit an interim report to the Joint Legislative Transportation Oversight Committee on or before June 1, 2000. The Commission shall submit a final report to the Joint Legislative Transportation Oversight Committee by March 1, 2001. Upon the filing of its final report, the Commission shall terminate.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

DESIGN-BUILD TRANSPORTATION CONSTRUCTION CONTRACTS AUTHORIZED

Section 27.3. Notwithstanding any other provision of law, the Board of Transportation may award up to three contracts annually for construction of transportation projects on a design-build basis. These contracts may be awarded after a determination by the Department of Transportation that delivery of the projects must be expedited and that

it is not in the public interest to comply with normal design and construction contracting procedures. Prior to the award of a design-build contract, the Secretary of Transportation shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations on the nature and scope of the project and the reasons an award on a design-build basis will best serve the public interest.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Albertson, Plyler, Perdue, Odom

REQUIRE THE DEPARTMENT OF TRANSPORTATION TO EXPAND THE USE OF RECYCLED MATERIALS IN ROAD MAINTENANCE

Section 27.4. G.S. 136-28.8 reads as rewritten:

"*§ 136-28.8. Use of recycled materials in construction.*

(a) It is the intent of the General Assembly that the Department of Transportation continue to expand its use of recycled materials in its construction and maintenance programs.

(b) The General Assembly declares it to be in the public interest to find alternative ways to use certain recycled materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. ~~To the extent economically practicable, the Department shall use:~~ The Department shall, consistent with economic feasibility and applicable engineering and environmental quality standards, use:

(1) Rubber from tires in road pavements, subbase materials, or other appropriate ~~applications; and~~ applications.

(2) Recycled materials for guard rail posts, right-of-way fence posts, and sign ~~supports~~ supports.

(3) Recycling technology, including, but not limited to, hot in-place recycling, in road and highway maintenance.

~~so long as these materials meet all appropriate engineering standards.~~

(c) As a part of its scheduled projects, the Department shall conduct additional research, which may include demonstration projects, on the use of recycled materials in ~~construction.~~ construction and maintenance.

(d) The Department shall review and revise existing bid procedures and specifications to eliminate any procedures and specifications that explicitly discriminate against recycled materials in ~~construction,~~ construction and maintenance, except where the procedures and specifications are necessary to protect the health, safety, and welfare of the people of this State.

(e) The Department shall review and revise its bid procedures and specifications on a continuing basis to encourage the use of recycled materials in construction and maintenance and shall, to the extent economically practicable, require the use of recycled materials.

(f) All agencies shall cooperate with the Department in carrying out the provisions of this section.

(g) On or before October 1 of each year, the Department shall report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before December 1 of each year, the Division of Pollution Prevention and Environmental Assistance shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental ~~Operations and~~ Operations, the Joint Legislative Transportation Oversight Committee, and the Environmental Review Commission.

(h) The Department, in consultation with the Department of Environment and Natural Resources, shall determine minimum content standards for recycled materials.

(i) This section is broadly applicable to all procurements by the Department if the quality of the product is consistent with the requirements of the bid specifications.

(j) The Department may adopt rules to implement this section."

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

DEPARTMENT OF TRANSPORTATION TO REPORT ON DELAYED ROAD CONSTRUCTION

Section 27.5. The Department of Transportation shall study the reasons that road construction is delayed in North Carolina. Among the other issues that the Department should study and make recommendations on are:

(1) The inability to obtain environmental permits and historical permits in a timely or expedited manner.

(2) Cooperation between the Department of Transportation and other agencies involved in the permitting process.

(3) Problems in acquiring needed rights-of-way for road construction.

(4) Delays in planning and design that are related to public participation and other mandated notices and hearings, and other issues.

For each of the above issues, the Department shall report on the nature of the problem and make recommendations on how the problem will be addressed. The report shall include specific goals and performance measures to be used to determine the success in implementing these recommendations.

The Department of Transportation shall report its findings and recommendations to the November 1999 meeting of the Joint Legislative Transportation Oversight Committee and to the Fiscal Research Division and to the November 1999 meeting of the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

DEPARTMENT OF TRANSPORTATION TO REPORT ON HIGHWAY CONSTRUCTION FINANCING

Section 27.6. The Department of Transportation shall study the various financing options available for increasing the pace of highway construction. Among the other issues that the Department should study and make recommendations on are:

(1) Cash-flow financing allowed under the General Statutes.
(2) Advanced federal funding.
(3) Proceeds from highway construction bonds.
(4) Grant Anticipation Revenue Vehicles.
(5) Toll roads.
(6) State and local participation in financing road projects.

The study of cash-flow financing shall include an analysis of how this financing option can be integrated into the management of the Transportation Improvement Program. The Department shall report its findings and make recommendations based on those findings to the December 1999 meeting of the Joint Legislative Transportation Oversight Committee, to the Fiscal Research Division, and to the Blue Ribbon Transportation Finance Study Commission.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

SIMPLIFY TRANSPORTATION IMPROVEMENT PROGRAM DATABASE

Section 27.7. The Department of Transportation shall redesign and modify its Transportation Improvement Program (TIP) database to make it more accessible, easier to understand, and easier to use. The Department shall consult with the Fiscal Research Division prior to redesigning the system and shall make a written report on suggested design changes to the Joint Legislative Transportation Oversight Committee by March 31, 2000. The Department shall implement these changes no later than October 1, 2000.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

SUBDIVISION ROAD ACCEPTANCE AND MAINTENANCE STUDY

Section 27.8. The Joint Legislative Transportation Oversight Committee shall study the proposed and ratified legislation and the policies for accepting and maintaining subdivision roads and streets that do and do not meet the standards adopted by the Board of Transportation and cited in G.S. 136-102.6. The Joint Legislative Transportation Oversight Committee may file an interim report with the 2000 Session of the General Assembly and shall file a final report with the 2001 Session of the General Assembly on this subject.

Requested by: Representatives Redwine, Crawford, Cole, Allred, Easterling, Hardaway, Senators Gulley, Plyler, Perdue, Odom

DISCLOSURE OF PERSONAL INFORMATION IN MOTOR VEHICLE RECORDS

Section 27.9.(a) Section 17.1 of Chapter 23 of the 1998 Session Laws, as amended by Section 27.18(a) of Chapter 212 of the 1998 Session Laws, is repealed.

Section 27.9.(b) G.S. 20-43.1 reads as rewritten:

"*§ 20-43.1. Disclosure of personal information in motor vehicle records.*

(a) The Division shall disclose personal information contained in motor vehicle records in accordance with the federal Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq.

(b) As authorized in 18 U.S.C. § 2721, the Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(11). ~~The Division shall establish procedures to disclose personal information for the purposes and in the manner described in 18 U.S.C. § 2721(b)(12) for titles and applications for leased vehicles issued on and after July 1, 1998.~~

(c) The Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(12) unless the Division receives prior written permission from the person about whom the information is requested."

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

FUNDS FOR RAIL SERVICE TO WESTERN NORTH CAROLINA REVERT

Section 27.10.(a) Of the funds appropriated to the Department of Transportation for fiscal year 1998-99 to operate rail service and to improve stations in Western North Carolina, five million two hundred thousand dollars ($5,200,000) shall revert on June 30, 1999.

Section 27.10.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Odom, Plyler, Perdue, Gulley

NORTH CAROLINA RAILROAD DIVIDENDS

Section 27.11.(a) In order to increase the capital of the North Carolina Railroad, any annual dividends of the North Carolina Railroad received by the State during the 1999-2000 fiscal year and used for purposes set forth in subsection (b) of this section shall be applied to reduce the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443.

Section 27.11.(b) Notwithstanding G.S. 136-16.6(a), of the annual dividends of the North Carolina Railroad received by the State during the 1999-2000 fiscal year, (i) ten million dollars ($10,000,000) shall be used to upgrade tracks in Eastern North Carolina; (ii) six million dollars ($6,000,000) shall be used to purchase right-of-way for the Charlotte train station; and (iii) up to three million dollars

($3,000,000) may be used for the old Burlington station/roundhouse pursuant to a plan to be adopted by the North Carolina Railroad Company.

Section 27.11.(c) Any remaining dividends shall be placed in a reserve and remain unencumbered and unexpended until appropriated by the General Assembly.

Section 27.11.(d) Subsection (c) of Section 32.30 of S.L. 1997-443 reads as rewritten:

"(c) Notwithstanding G.S. 147-69.1, if a majority of the outstanding shares held by shareholders other than the State are represented in person or by proxy at a North Carolina Railroad Company shareholder meeting where a plan for merger between the Beaufort and Morehead Railroad Company and the North Carolina Railroad Company is approved, then the State Treasurer shall invest on a one-time basis up to sixty-one million dollars ($61,000,000) from the reserve account created in subsection (b) of this section in obligations of the Beaufort and Morehead Railroad Company or any successor company. This investment shall be an interest-bearing demand note and shall be in a form prescribed by the State Treasurer. The remaining balance of the loan is not subject to repayment of principal or interest prior to action of the ~~1999~~ 2000 Session of the General Assembly. The Director of the Budget shall recommend to the ~~1999~~ 2000 Session of the General Assembly, by February 1, ~~1999,~~ 2000, a plan for the repayment of the loan."

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS

Section 27.12. To the extent allowable by federal law, the Department of Transportation shall use ten million dollars ($10,000,000) of federal highway funds during each year of the 1999-2001 biennium for improvements to public transportation and rail.

For fiscal year 1999-2000:

(1) $6,000,000 shall be allocated to the Public Transportation Division for support of the Triangle Transit Authority.

(2) $2,000,000 shall be allocated to the Public Transportation Division for rapid transit in Charlotte.

(3) $2,000,000 shall be allocated to the Rail Division.

For fiscal year 2000-2001:

(1) $8,000,000 shall be allocated to the Public Transportation Division for support of the Triangle Transit Authority.

(2) $2,000,000 shall be allocated to the Rail Division.

This section is not intended to prevent budgetary transfers as allowed under G.S. 143-23.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

SPENDING PUBLIC TRANSPORTATION AND RAIL DIVISION FUNDS

Section 27.13. Funds appropriated in this act to the Department of Transportation for the Public Transportation Division and the Rail Division are to be used only as set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act.

This provision does not affect the use of the continuing public transportation appropriation pursuant to G.S. 136-16.8 and the continuing rail appropriation pursuant to G.S. 136-16.6.

Of the funds appropriated for public transportation in fiscal year 1999-2000:

(1) Thirteen million forty-six thousand nine hundred twenty-one dollars ($13,046,921) shall be budgeted for urban and regional maintenance assistance (Object Code 6701)

(2) Four million six hundred thousand dollars ($4,600,000) shall be budgeted for statewide grant match (Object Code 6702)

(3) Five million dollars ($5,000,000) shall be budgeted for assistance for the elderly and disabled (Object Code 6703)

(4) Three million three hundred fifty thousand dollars ($3,350,000) shall be budgeted for rural capital (Object Code 6704)

(5) One million seven hundred fifty thousand dollars $1,750,000 shall be budgeted for Work First and transitional employment (Object Code 6705)

(6) One million five hundred thousand dollars ($1,500,000) shall be budgeted for rural, intercity, facility, and technology (Object Code 6706)

(7) Seven million dollars ($7,000,000) shall be budgeted for regional new start and capital (Object Code 6707).

Of the funds appropriated for public transportation in fiscal year 2000-2001:

(1) Eight million one hundred forty-six thousand nine hundred twenty-one dollars ($8,146,921) shall be budgeted for urban and regional maintenance assistance (Object Code 6701)

(2) Four million six hundred thousand dollars ($4,600,000) shall be budgeted for statewide grant match (Object Code 6702)

(3) Five million ($5,000,000) shall be budgeted for assistance for the elderly and disabled (Object Code 6703)

(4) Three million fifty thousand dollars ($3,050,000) shall be budgeted for rural capital (Object Code 6704)

(5) One million seven hundred fifty thousand dollars ($1,750,000) shall be budgeted for Work First and transitional employment (Object Code 6705)

(6) One million five hundred thousand dollars ($1,500,000) shall be budgeted for rural, intercity, facility, and technology (Object Code 6706)

(7) Nine million dollars ($9,000,000) shall be budgeted for regional new start and capital (Object Code 6707).

This section is not intended to prevent budgetary transfers as allowed under G.S. 143-23.

Requested by: Representatives Crawford, Cole, Nesbitt, Easterling, Hardaway, Redwine, Senators Gulley, Metcalf, Carter, Robinson, Carpenter, Plyler, Perdue, Odom

WESTERN NORTH CAROLINA RAILROAD STATIONS

Section 27.13A. Of the funds appropriated for public transportation and rail, the Department of Transportation may use up to one million dollars ($1,000,000) in each year of the 1999-2001 biennium for train stations in Western North Carolina.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

OVERREALIZED HIGHWAY TRUST FUND REVENUES TO MOVE DIVISION 3 HEADQUARTERS.

Section 27.14. Of the overrealized Highway Trust Fund revenues from the 1998-99 fiscal year, the Department of Transportation may use up to ten million seven hundred thousand dollars ($10,700,000), to be drawn down from the Highway Trust Fund as needed, to pay the capital costs required to relocate the Division 3 headquarters complex in Wilmington, North Carolina, which must be moved to make way for construction of the Smith Creek Parkway. Any funds used pursuant to this subdivision shall be repaid to the Highway Trust Fund from the Highway Fund by June 30, 2004. The Department of Transportation shall report on its repayment plan to the Joint Legislative Transportation Oversight Committee by March 31, 2000.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

USE OF GLOBAL TRANSPARK AUTHORITY FUNDS

Section 27.15. The Global TransPark Authority's funds shall be used for:

(1) Matching federal construction funds.

(2) Developmental and operational activities related to the Kinston Regional Jetport and the Global TransPark Education and Training Center.

(3) Project marketing and industrial development activities.

Requested by: Representatives Baddour, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

GLOBAL TRANSPARK OBLIGATIONS MATURITY DATES EXTENDED

Section 27.16. G.S. 147-69.2(b)(11) reads as rewritten:

"(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized

by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars ($25,000,000), that have a final maturity not later than September 1, ~~1999.~~ 2004. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from ~~any such~~ the loss by appropriating to ~~such~~ the Escheat Fund funds equivalent to ~~such~~ the loss."

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

SMALL URBAN CONSTRUCTION DISCRETIONARY FUNDS

Section 27.18. Of the funds appropriated in this act to the Department of Transportation:

(1) $14,000,000 shall be allocated in each fiscal year for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small urban construction program for small urban construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits.

(2) $10,000,000 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects as approved by the Secretary of the Department of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formula as provided in G.S. 136-44.5.

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

AMENDMENT TO THE TRANSPORTATION EQUITY FORMULA TO EXEMPT FEDERAL DISCRETIONARY FUNDING

Section 27.19. G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than funds expended on

an urban loop project listed in ~~G.S. 136-180,~~ G.S. 136-180 and funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department, shall be distributed throughout the State in accordance with this section.

For purposes of this distribution, the counties of the State are grouped into seven distribution regions as follows:

(1) Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

(2) Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.

(3) Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.

(4) Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.

(5) Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.

(6) Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

(7) Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey."

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

EQUITY ALLOCATION DISTRIBUTION STUDY AND REPORT

Section 27.20.(a) G.S. 136-17.2A is amended by adding a new subsection to read:

"(g) On or before December 1, 1999, the Secretary shall submit to the General Assembly a report of allocations, obligations, and actual yearly expenditures for each distribution region, covering fiscal years 1989-90 through 1997-98. On or before December 1, 2000, and every two years thereafter, the Secretary shall submit to the General Assembly a report of allocations and actual expenditures for the preceding two fiscal years. At any time in which the report indicates

that allocations and expenditures by distribution region do not comply with the provisions of subsection (d) of this section, the Secretary shall also submit a plan to correct the imbalance."

Section 27.20.(b) In addition, the Secretary shall study and report to the General Assembly by December 1, 2000, on proposals for:

(1) Separate funding allocations for roads that impact large-scale economic development projects, including projects that would create new industries.
(2) Separate funding allocations for major highways that impact no fewer than two funding regions.
(3) Methods to accommodate these spending proposals in the equity formula.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

MEDIUM CUSTODY ROAD CREW COMPENSATION

Section 27.21.(a) Of funds appropriated to the Department of Transportation by this act, seven million dollars ($7,000,000) per year shall be used by the Department to reimburse the Department of Correction during the 1999-2001 biennium for costs authorized by G.S. 148-26.5 for reimbursement for highway-related labor performed by medium custody prisoners. The Department of Transportation may use funds appropriated by this act to pay requested reimbursements submitted by the Department of Correction over and above the seven million dollars ($7,000,000), but those reimbursement requests shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

Section 27.21.(b) It is the express intent of the General Assembly that all future reimbursements for highway-related labor performed by medium custody prisoners shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation and that the Governor's budget shall recommend the amount and source of funding.

Requested by: Representatives Easterling, Hardaway, Redwine, Crawford, Cole, Senators Gulley, Plyler, Perdue, Odom

STATE TREES AND FLOWERS ON DOT RIGHT-OF-WAY

Section 27.22. The Department of Transportation shall develop and implement a plan to plant the State tree, the pine, including the loblolly pine, and the State flower, the dogwood, along the State's roads and highways in the right-of-way of the Department. The Department shall consult with and use the expertise of the United States Forest Service and the Forest Resources Division of the North Carolina Department of Environment and Natural Resources in the development and implementation of the plan. The Department shall,

to the fullest extent possible, use inmates of the Department of Correction to plant and maintain the trees. The Department shall submit the plan to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee by October 1, 1999, and begin implementation of the plan by January 1, 2000.

Requested by: Representatives Dockham, Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

GLOBAL TRANSPARK AUTHORITY TO REPORT ON FUTURE PLANS AND PERFORMANCE MEASURES

Section 27.23. The Global TransPark Authority shall report to the Joint Legislative Transportation Oversight Committee on its strategic and business plans for the years 2000 through 2010. The report shall include specific interim goals and performance measures to be used to determine the success in implementing these plans. The report shall be submitted on or before February 1, 2000, to the Joint Legislative Transportation Oversight Committee.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Perdue, Plyler, Odom

VISITOR CENTERS EXEMPT FROM UMSTEAD ACT

Section 27.23A. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(20) The Department of Transportation, or any nonprofit lessee of the Department, for the sale of books, crafts, gifts, and other tourism-related items at visitor centers owned by the Department."

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Hoyle, Plyler, Perdue, Odom

DRIVERS EDUCATION FUNDING

Section 27.24. From funds appropriated by this act to the Department of Transportation, the Department shall pay for the increased costs for drivers education due to the projected increase in average daily membership in the ninth grade drivers education program.

In allocating funds for driver training, the State Board of Education shall consider the needs of small and low-wealth local school administrative units.

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

FUTURE OF THE NORTH CAROLINA RAILROAD STUDY COMMISSION

Section 27.25.(a) Commission Established. -- There is established the Future of the North Carolina Railroad Study Commission.

Section 27.25.(b) Membership. -- The Commission shall be composed of 16 members as follows:

(1) Eight members of the House of Representatives appointed by the Speaker of the House.

(2) Eight members of the Senate appointed by the President Pro Tempore of the Senate.

Section 27.25.(c) Duties of the Commission. -- The Commission shall study the following matters:

(1) The appropriate purpose, powers, and governance of the North Carolina Railroad Company.

(2) Issues important to the future of passenger and freight rail service in North Carolina.

The Commission's study of these and any other matters is not intended and shall not delay the North Carolina Railroad Company's contract negotiations with freight and passenger rail service operators including Research Triangle Regional Public Transportation Authority and Norfolk Southern Railway Company.

Section 27.25.(d) Vacancies. -- Any vacancy on the Commission shall be filled by the appointing authority.

Section 27.25.(e) Cochairs. -- Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the cochairs.

Section 27.25.(f) Quorum. -- A quorum of the Commission shall be nine members.

Section 27.25.(g) Expenses of Members. -- Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1.

Section 27.25.(h) Staff. -- Adequate staff shall be provided to the Commission by the Legislative Services Office.

Section 27.25.(i) Consultants. -- The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

Section 27.25.(j) Meeting Location. -- The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

Section 27.25.(k) Report. -- The commission shall submit a final report to the General Assembly on or before May 1, 2000. Upon filing of the report, the Commission shall terminate.

Section 27.25.(l) Appropriation. -- Of the funds appropriated to the General Assembly, the Legislative Services Commission may allocate up to twenty-five thousand dollars ($25,000) for the expenses of the Commission.

Requested by: Representatives Hensley, Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

LEFT TURN ON RED FUNDING

Section 27.26. Should House Bill 815, or any other bill containing the same or similar language, be ratified, the Department of Transportation shall pay the costs of implementing left turns on red with funds appropriated to it by this act.

PART XXVIII. SALARIES AND BENEFITS

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

GOVERNOR AND COUNCIL OF STATE

Section 28.(a) Effective July 1, 1999, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be one hundred ~~ten~~ thirteen thousand ~~three~~ six hundred ~~forty-six~~ fifty-six dollars ~~($110,346)~~ ($113,656) annually, payable monthly."

Section 28.(b) The annual salaries for the members of the Council of State, payable monthly, for the 1999-2000 fiscal year beginning July 1, 1999, are:

Council of State	Annual Salary
Lieutenant Governor	$100,310
Attorney General	100,310
Secretary of State	100,310
State Treasurer	100,310
State Auditor	100,310
Superintendent of Public Instruction	100,310
Commissioner of Agriculture and Consumer Services	100,310
Insurance Commissioner	100,310
Labor Commissioner	100,310

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

Section 28.1. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 1999-2000 and 2000-2001 fiscal years are:

Nonelected Department Heads	Annual Salary
Secretary of Administration	$98,003
Secretary of Correction	98,003
Secretary of Crime Control and Public Safety	98,003
Secretary of Cultural Resources	98,003
Secretary of Commerce	98,003

Secretary of Environment and Natural Resources	98,003
Secretary of Health and Human Services	98,003
Secretary of Revenue	98,003
Secretary of Transportation	98,003

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

Section 28.2. The annual salaries, payable monthly, for the 1999-2000 and 2000-2001 fiscal years for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	$ 89,200
State Controller	124,835
Commissioner of Motor Vehicles	89,200
Commissioner of Banks	100,310
Chairman, Employment Security Commission	124,677
State Personnel Director	98,003
Chairman, Parole Commission	81,450
Members of the Parole Commission	75,198
Chairman, Utilities Commission	111,713
Members of the Utilities Commission	100,310
Executive Director, Agency for Public Telecommunications	75,198
General Manager, Ports Railway Commission	67,903
Director, Museum of Art	91,401
Executive Director, North Carolina Housing Finance Agency	110,394
Executive Director, North Carolina Agricultural Finance Authority	86,823

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

Section 28.3.(a) The annual salaries, payable monthly, for specified judicial branch officials for the 1999-2000 and 2000-2001 fiscal years are:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	$113,656
Associate Justice, Supreme Court	110,687
Chief Judge, Court of Appeals	107,919
Judge, Court of Appeals	106,075
Judge, Senior Regular Resident Superior Court	103,193
Judge, Superior Court	100,310

Chief Judge, District Court	91,086
Judge, District Court	88,204
District Attorney	92,931
Administrative Officer of the Courts	103,193
Assistant Administrative Officer of the Courts	94,257
Public Defender	92,931

Section 28.3.(a1) The salary increase for the Assistant Administrative Officer of the Courts shall be funded from funds appropriated to the Judicial Department.

Section 28.3.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed fifty-seven thousand one hundred sixty-five dollars ($57,165), and the minimum salary of any assistant district attorney or assistant public defender is at least twenty-nine thousand one hundred eighty-four dollars ($29,184) effective July 1, 1999.

Section 28.3.(c) The salaries in effect for fiscal year 1999-2000 for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by three percent (3%), commencing July 1, 1999.

Section 28.3.(d) The salaries in effect for fiscal year 1999-2000 for all permanent, part-time employees of the Judicial Department shall be increased on and after July 1, 1999, by pro rata amounts of the three percent (3%).

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

CLERK OF SUPERIOR COURT/SALARY INCREASES

Section 28.4. Effective July 1, 1999, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary	
Less than 100,000	~~$64,556~~	$66,493
100,000 to 149,999	~~72,515~~	74,690
150,000 to 249,999	~~80,474~~	82,888
250,000 and above	~~88,433.~~	91,086.

The salary schedule in this subsection is intended to represent the following percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%

150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES

Section 28.5. Effective July 1, 1999, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary	
Minimum	~~$24,122~~	$24,846
Maximum	~~42,710~~	43,991

Deputy Clerks	Annual Salary	
Minimum	~~$19,286~~	$19,865
Maximum	~~32,899.~~	33,886."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

MAGISTRATES SALARY INCREASES/SUNSET REPEAL

Section 28.6.(a) Section 7.13(c) of Chapter 769 of the 1993 Session Laws is repealed.

Section 28.6.(b) Effective July 1, 1999, G.S. 7A-171.1 reads as rewritten:

"*§ 7A-171.1. Duty hours, salary, and travel expenses within county.*

(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally

appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary	
Entry Rate	~~$24,471~~	$25,205
Step 1	~~26,927~~	27,735
Step 2	~~29,600~~	30,488
Step 3	~~32,516~~	33,491
Step 4	~~35,711~~	36,782
Step 5	~~39,222~~	40,399
Step 6	~~43,083.~~	44,375.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, an individual who, when initially appointed as a full-time magistrate, is licensed to practice law in North Carolina, shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the

license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	$19,866
1 or more but less than 3 years of service	~~20,279~~ 20,887
3 or more but less than 5 years of service	~~22,373.~~22,941.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

(2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3.

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(4) The salaries of 'part-time magistrates' shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

GENERAL ASSEMBLY PRINCIPAL CLERKS

Section 28.7. Effective July 1, 1999, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~eighty-one thousand six hundred ninety-sixty~~ eighty-four thousand one hundred forty-seven dollars ~~($81,696)~~ ($84,147) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

SERGEANT-AT-ARMS AND READING CLERKS

Section 28.8. Effective July 1, 1999, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred sixty-six ($266.00)~~ two hundred seventy-four dollars ($274.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

LEGISLATIVE EMPLOYEES

Section 28.9. The Legislative Administrative Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 1998-99 by three percent (3%). Nothing in this act limits any of the provisions of G.S. 120-32.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

AGENCY TEACHER/PRINCIPAL SUPPLEMENT

Section 28.10. The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1999-2000 funds necessary to provide statewide teacher supplements for State agency teachers who are paid on the teacher salary schedule as set out in Section 8.13 of this act based on five percent (5%) of their salaries.

The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1999-2000 funds necessary to provide statewide supplements for State agency principals and assistant principals who possess the title of principal or assistant principal who perform the requisite duties of a principal or assistant principal, based on five percent (5%) of their salaries. The employing agency or department and the Office of State Budget and Management shall jointly determine the personnel covered by this paragraph.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Section 28.11. The Director of the Budget shall transfer from the Reserve for Compensation Increase, created in this act for fiscal year 1999-2000, funds to the Department of Community Colleges necessary to provide an average annual salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1999, for all permanent full-time community college institutional personnel supported by State funds. The State Board of Community Colleges shall establish guidelines for providing their salary increases to community college institutional personnel. Salary funds shall be used to provide an average annual salary increase of three percent (3%) to all full-time employees and part-time employees on a pro rata basis.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

Section 28.12.(a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increase, created in this act for fiscal year 1999-2000, to provide an annual average salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1999, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of

Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Section 28.12.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increase, created in this act for fiscal biennium 1999-2001, to provide an annual average salary increase of seven and one-half percent (7.5%) in 1999-2000, including funds for the employer's retirement and social security contributions, commencing July 1, 1999, and July 1, 2000, for all teaching employees of the North Carolina School of Science and Mathematics supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

COMPENSATION BONUS/STATE EMPLOYEES

Section 28.13.(a) Any person:

(1) Whose salary is set: (i) pursuant to the State Personnel Act; or (ii) by or under this act, other than Sections 28, 28.1, 28.2, 28.3(a), and 28.4; and

(2) Who was, on July 1, 1999, a permanent officer or permanent employee shall receive, payable for the last pay date in July, 1999, a compensation bonus of one hundred twenty-five dollars ($125.00) except that:

a. The compensation bonus for persons subject to Section 28.11 of this act shall be an average of one hundred twenty-five dollars ($125.00) and shall be allocated in accordance with guidelines adopted by the State Board of Community Colleges, except for teaching faculty at the community colleges.

b. The compensation bonus for persons subject to Section 28.12 of this act shall be an average of one hundred twenty-five dollars ($125.00) and shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, except for teaching faculty of the UNC System as appropriate.

c. The guidelines and rules adopted under sub-subdivisions a. and b. of this subdivision may cover employees of those institutions whose first day of employment for the 1999-2000 academic year came after July 1, 1999.

Section 28.13.(b) For permanent part-time employees, the compensation bonus provided by this section shall be adjusted pro rata.

Section 28.13.(c) The Director of the Budget shall transfer from the Reserve for Compensation Bonus provided by this act sufficient funds to implement this section.

Section 28.13.(d) Notwithstanding G.S. 135-1(7a), the compensation bonus provided by this section is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System. The compensation bonus awarded by this section shall not be administered under G.S. 126-7.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

MOST STATE EMPLOYEES

Section 28.14.(a) The salaries in effect June 30, 1999, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after July 1, 1999, unless otherwise provided by this act, pursuant to the Comprehensive Compensation System set forth in G.S. 126-7 and rules adopted by the State Personnel Commission as follows:

(1) Career growth recognition awards in the amount of two percent (2%); and

(2) A cost-of-living adjustment in the amount of one percent (1%).

Notwithstanding G.S. 126-7(c)(4a), any permanent full-time State employee whose salary is set in accordance with the State Personnel Act and whose salary is at the top of the salary range or within two percent (2%) of the top of the salary range shall receive a one-time bonus of two percent (2%) less the career growth recognition award the employee receives. The employee shall receive the career growth bonus at the time the employee is eligible for the career growth recognition award, but not earlier than July 1, 1999.

Section 28.14.(b) Except as otherwise provided in this act, salaries in effect June 30, 1999, for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by three percent (3%) commencing July 1, 1999.

Section 28.14.(c) The salaries in effect June 30, 1999, for all permanent part-time State employees shall be increased on and after July 1, 1999, by pro rata amounts of the salary increases provided for permanent full-time employees covered under subsection (a) of this section.

Section 28.14.(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase on and after July 1, 1999, in accordance with subsection (a), (b), or

(c) of this section, including funds for the employer's retirement and social security contributions, of the permanent full-time and part-time employees of the agency.

Section 28.14.(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the three percent (3%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 1999.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

ALL STATE-SUPPORTED PERSONNEL

Section 28.15.(a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

Section 28.15.(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

Section 28.15.(c) The salary increases provided in this act are to be effective July 1, 1999, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 1999.

Payroll checks issued to employees after July 1, 1999, which represent payment of services provided prior to July 1, 1999, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

Section 28.15.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1999-2000 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

Section 28.15.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

SALARY ADJUSTMENT FUND

Section 28.16. Any remaining appropriations for legislative salary increases not required for that purpose may be used to

supplement the Salary Adjustment Fund. These funds shall first be used to provide reclassifications of those positions already approved by the Office of State Personnel. Of these funds, up to the sum of sixty thousand dollars ($60,000) shall be earmarked for the Department of Cultural Resources to reclassify security guard positions in the Museum of History and at State historic sites. Allotment of salary adjustment funds by the Office of State Budget and Management to the Department of Cultural Resources is contingent upon the issuance of a classification study by the Office of State Personnel that validates salary adjustment needs for existing security guard personnel in the Museum of History and at State historic sites. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of salary adjustment funds for any State agency.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARY INCREASES

Section 28.17. For the 1999-2000 and 2000-2001 fiscal years, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of any legislative salary increase for employees of the Wildlife Resources Commission.

Requested by: Representatives Easterling, Hardaway, Redwine, Fox, Owens, Carpenter, Senators Plyler, Perdue, Odom

WILDLIFE SALARY EQUITY

Section 28.18.(a) The Office of State Personnel shall adjust the salaries of Wildlife Enforcement Officers of the Wildlife Resources Commission so that the average salary of Wildlife Enforcement Officers in any salary classification level is the same as the average salary of the members of the State Highway Patrol whose positions are classified at the same salary classification level. The salary of a Wildlife Enforcement Officer shall be individually adjusted based upon the current salary of the officer, the job classification title and salary level of the position in which the officer is employed, and the length of law enforcement service of the officer. No officer shall receive a salary adjustment if the officer's most recent performance appraisal is below satisfactory, and no officer's salary shall be raised above the maximum of the range for the position in which the officer is employed.

Section 28.18.(b) This section may be implemented only with funds available within the budget of the Wildlife Resources Commission. Authorized funding provided in Section 28.17 of this act shall not be used to implement this section.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom, Rand

LONGEVITY FOR ASSISTANT DISTRICT ATTORNEYS AND ASSISTANT PUBLIC DEFENDERS

Section 28.19.(a) G.S. 7A-65(d) reads as rewritten:

"(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, ~~and~~ fourteen and four-tenths percent (14.4%) after 15 years of ~~service.~~ service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as an assistant district attorney or as a district attorney."

Section 28.19.(b) G.S. 7A-467(d) reads as rewritten:

"(d) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, ~~and~~ fourteen and four-tenths percent (14.4%) after 15 years of ~~service.~~ service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as an assistant public defender."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

MINIMUM COMPENSATION FOR STATE EMPLOYEES

Section 28.19A.(a) For the 1999-2001 biennium, permanent full-time employees of State departments, agencies, boards, and commissions who are subject to the State Personnel Act shall receive a minimum monthly salary in an amount equivalent to one-twelfth of the income amount stated in the federal poverty guidelines for a family of four. Federal poverty guidelines for the purposes of this section are defined as the poverty guidelines issued annually by the United States Department of Health and Human Services.

Section 28.19A.(b) The Office of State Personnel and the Office of State Budget and Management shall permit State departments, agencies, boards, and commissions to make any necessary equity adjustments to the salaries of permanent full-time employees above the minimum set by subsection (a) of this section within funds available to the departments, agencies, boards, and commissions.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

TRAVEL RATES OF STATE EMPLOYEES

Section 28.20. G.S. 138-6(a) reads as rewritten:

"(a) Travel on official business by the officers and employees of State departments, institutions and agencies which operate from funds deposited with the State Treasurer shall be reimbursed at the following rates:

(1) For transportation by privately owned automobile, the business standard mileage rate set by the Internal Revenue Service per mile of travel and the actual cost of tolls paid. Any other law which sets a mileage rate by referring to the rate set herein, instead establishes a rate of twenty-five cents (25¢) per mile. No reimbursement shall be made for the use of a personal car in commuting from an employee's home to his duty station in connection with regularly scheduled work hours. Any designation of an employee's home as his duty station by a department head shall require prior approval by the Office of State Budget and Management on an annual basis.

(2) For bus, railroad, Pullman, or other conveyance, actual fare.

(3) For expenses incurred for subsistence, payment of eighty-one dollars ($81.00) per day when traveling in-state or ninety-three dollars ($93.00) per day when traveling out-of-state. Payment of sales tax, lodging tax, local tax, or service fees applied to the cost of lodging are to be paid in addition to the daily subsistence amount. The employee may exceed the part of the ceiling allocated for lodging without approval for overexpenditure provided that the total lodging and food reimbursement does not exceed the maximum provided by this subdivision. When travel involves less than a full day (24-hour period), a reasonable prorated amount shall be paid in accordance with regulations and criteria which shall be promulgated and published by the Director of the Budget. Reimbursement to State employees for lunches eaten while on official business may be made only in the following circumstances:

a. When an overnight stay is required reimbursement is allowed while an employee is in travel status;

b. When the cost of the lunch is included as part of a registration fee for a formal congress, conference, assembly, or convocation, by whatever name called. Such assembly must involve the active participation of persons other than the employees of a single State department, institution, or agency and must be necessary for conducting official State business; or

c. When the State employee is a member of, or providing staff assistance to, a State board, commission, committee, or council which operates from funds deposited with the State Treasurer, and the lunch is preplanned as part of the meeting for the entire board, commission, committee, or council.

(4) For convention registration fees not to exceed the actual amount expended as shown by a valid receipt or invoice.

(5) Effective July 1, 2001, and effective July 1 of each odd-numbered year thereafter, the Director of the Budget shall revise the amounts of payment of subsistence per day when traveling in-State and out-of-state by an amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers for the most recent 24-month period."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

TRAVEL ALLOWANCE FOR MEMBERS OF THE UTILITIES COMMISSION

Section 28.21.(a) G.S. 62-10 is amended by adding a new subsection to read:

"(h1) In addition to compensation for their services, each member of the Commission who lives at least 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each week the member travels to the City of Raleigh from the member's home for business of the Commission. The allowance shall be calculated for each member by multiplying the actual round-trip mileage from that member's home to the City of Raleigh by the rate-per-mile which is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27, 1993."

Section 28.21.(b) G.S. 62-10(j) reads as rewritten:

"(j) ~~Members~~ Except as provided in subsection (h1) of this section, members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a)."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

UTILITIES COMMISSION/EXECUTIVE DIRECTOR LONGEVITY

Section 28.21A. G.S. 62-15(a) reads as rewritten:

"(a) There is established in the Commission the office of executive director, whose salary and longevity pay shall be the same as that fixed for members of the Commission. 'Service' for purposes of longevity pay means service as executive director of the public staff. The executive director shall be appointed by the Governor subject to confirmation by the General Assembly by joint resolution. The name of the executive director appointed by the Governor shall be submitted to the General Assembly on or before May 1 of the year in which the term of his office begins. The term of office for the executive director shall be six years, and the initial term shall begin July 1, 1977. The executive director may be removed from office by the Governor in the event of his incapacity to serve; and the executive director shall be removed from office by the Governor upon the affirmative recommendation of a majority of the Commission, after consultation with the Joint Legislative Utility Review Committee of the General

Assembly. In case of a vacancy in the office of executive director for any reason prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor to the General Assembly, not later than four weeks after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, the executive director shall be appointed by the Governor to serve on an interim basis pending confirmation by the General Assembly."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

Section 28.22.(a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salaries. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income and disability salary continuation benefits.

Section 28.22.(b) Effective July 1, 1999, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1999-2000 fiscal year are (i) eight and eighty-three hundredths percent (8.83%) - Teachers and State Employees; (ii) thirteen and eighty-three hundredths percent (13.83%) - State Law Enforcement Officers; (iii) seven and thirty-six hundredths percent (7.36%) - University Employees' Optional Retirement Program; (iv) eighteen and fifty-eight hundredths percent (18.58%) - Consolidated Judicial Retirement System; and (v) twenty-two and seventy hundredths percent (22.70%) - Legislative Retirement System. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program include fifty-two hundredths percent (0.52%) for the Disability Income Plan.

Section 28.22.(c) Effective July 1, 2000, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2000-2001 fiscal year are (i) ten and eighty-three hundredths percent (10.83%) - Teachers and State

Employees; (ii) fifteen and eighty-three hundredths percent (15.83%) - State Law Enforcement Officers; (iii) nine and thirty-six hundredths percent (9.36%) - University Employees' Optional Retirement Program; (iv) twenty and fifty-eight hundredths percent (20.58%) - Consolidated Judicial Retirement System; and (v) twenty-four and seventy-hundredths percent (24.70%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program include fifty-two hundredths percent (0.52%) for the Disability Income Plan.

Section 28.22.(d) The General Assembly authorizes the Board of Trustees of the Consolidated Judicial Retirement System to adopt a fixed amortization period of nine years for purposes of the unfunded accrued liability for the Retirement System beginning with the valuation for December 31, 1998.

Section 28.22.(e) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 1999-2000 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - one thousand six hundred nineteen dollars ($1,619), and (ii) Non-Medicare-eligible employees and retirees - two thousand one hundred twenty-six dollars ($2,126).

Section 28.22.(f) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2000-2001 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - one thousand seven hundred eighteen dollars ($1,718); and (ii) Non-Medicare-eligible employees and retirees - two thousand two hundred fifty-six dollars ($2,256).

Requested by: Representatives Easterling, Hardaway, Redwine, Michaux, Senators Plyler, Perdue, Odom, Phillips

COST-OF-LIVING INCREASES FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

Section 28.23.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(fff) From and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1998, shall be increased by two and three-tenths percent (2.3%) of the allowance payable on June 1, 1999, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose

retirement commenced after July 1, 1998, but before June 30, 1999, shall be increased by a prorated amount of two and three-tenths percent (2.3%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1998, and June 30, 1999."

Section 28.23.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(t) From and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1998, shall be increased by two and three-tenths percent (2.3%) of the allowance payable on June 1, 1999. Furthermore, from and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1998, but before June 30, 1999, shall be increased by a prorated amount of two and three-tenths percent (2.3%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1998, and June 30, 1999."

Section 28.23.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(n) In accordance with subsection (a) of this section, from and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1999, shall be increased by two and three-tenths percent (2.3%) of the allowance payable on June 1, 1999. Furthermore, from and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1999, but before June 30, 1999, shall be increased by a prorated amount of two and three-tenths percent (2.3%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1999, and June 30, 1999."

Section 28.23.(d) G.S. 128-27 is amended by adding a new subsection to read:

"(ww) From and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1998, shall be increased by one percent (1.0%) of the allowance payable on June 1, 1999, in accordance with subsection (k) of this section. Furthermore, from and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1998, but before June 30, 1999, shall be increased by a prorated amount of one percent (1.0%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1998, and June 30, 1999."

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom, Cooper

RETIREMENT SYSTEM TRANSFER

Section 28.24.(a) G.S. 128-34 is amended by adding a new subsection to read:

"(d) The accumulated contributions and creditable service of any member whose service as an employee has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-53(11), of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Local Governmental Employees' Retirement System to the Consolidated Judicial Retirement System, there shall be transferred from the Local Governmental Employees' Retirement System to the Consolidated Judicial Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Local Governmental Employees' Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

Section 28.24.(b) G.S. 135-28.1 is amended by adding a new subsection to read:

"(f) Notwithstanding the provisions of subsections (a), (b), (c), (d), and (e) of this section, the accumulated contributions and creditable service of any member whose service as a teacher or employee has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-53(11), of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System, there shall be transferred from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Teachers' and State Employees' Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

Section 28.24.(c) G.S. 135-56 is amended by adding a new subsection to read:

"(f) The creditable service of a member who was a member of the Local Governmental Employees' Retirement System or the Teachers' and State Employees' Retirement System and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement System or the Teachers' and State Employees' Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

Section 28.24.(d) G.S. 135-58(a1) reads as rewritten:

"(a1) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 on or after July 1, 1990, but before July 1, 1999, after he either has attained his 65th birthday or has completed 24 years or more of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (1), (2), and (3) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of his final compensation:

(1) Four and two-hundredths percent (4.02%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the superior court or as administrative officer of the courts;

(3) Three and two-hundredths percent (3.02%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the district court, district attorney, or clerk of superior court."

Section 28.24.(e) G.S. 135-58 is amended by adding a new subsection to read:

"(a2) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 1999, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of

creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56."

Section 28.24.(f) G.S. 135-53 is amended by adding a new subdivision to read:

"(2a) "Average final compensation" shall mean the average annual compensation of a member during the 48 consecutive calendar months of membership service producing the highest such average."

Section 28.24.(g) G.S. 135-60(a) reads as rewritten:

"(a) Upon retirement for disability in accordance with G.S. 135-59, a member shall receive a disability retirement allowance computed and payable as provided for service retirement in G.S. ~~135-58(a)~~ 135-58(a2) except that the member's creditable service shall be taken as the creditable service he would have had had he continued in service to the earliest date he could have retired on an unreduced service retirement allowance as a member in the same division of the General Court of Justice in which he was serving on his disability retirement date."

Section 28.24.(h) Chapter 135 of the General Statutes is amended by adding a new section to read:

"*§ 135-70A. Transfer of members from the Local Governmental Employees' Retirement System or the Teachers' and State Employees' Retirement System.*

(a) The accumulated contributions, creditable service, and reserves, if any, of a former teacher or employee, as defined in G.S. 135-1(25), 135-1(10), and 128-21(10), respectively, who is a member

of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from the Local Governmental Employees' Retirement System or the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a teacher or employee is terminated other than by retirement or death and who becomes a member of the Consolidated Judicial Retirement System may, upon application of the member, be transferred from the Local Governmental Employees' Retirement System or the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Local Governmental Retirement System or the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Local Governmental Employees' Retirement System or the Teachers' and State Employees' Retirement System shall be transferred and credited to the annuity savings fund in the Consolidated Judicial Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer the preceding subsection and to prevent any duplication of service credits or benefits that might otherwise occur."

Requested by: Representatives Easterling, Hardaway, Redwine, Fitch, Senators Plyler, Perdue, Odom

REPEAL RETIREMENT EXCLUSION

Section 28.25. G.S. 135-72 reads as rewritten:

~~"*§ 135-72. Benefits of members appointed to serve in United States courts.*~~

~~(a) Members who are appointed to serve as a judicial officer in the United States courts shall not be eligible for benefits under this Article while actively serving as a judicial officer in the United States courts.~~

~~(b) Should a retired former member be appointed to serve as a judicial officer in the United States courts or be in receipt of a retirement allowance from service as a judicial officer in the United States courts, his retirement allowance provided under the provisions of this Article shall be reduced so that the sum of his retirement allowance and the salary or retirement allowance from service as a judicial officer in the United States courts does not exceed the salary for the office last held by the retired member in the General Court of Justice of North Carolina. Provided, however, that under no circumstances will the retired member's retirement allowance be reduced below the amount of his annuity resulting from his accumulated contributions.~~"

Requested by: Representatives Easterling, Hardaway, Redwine, Jeffus, Senators Plyler, Perdue, Odom, Carter

SCHOOL EMPLOYEE RETIREMENT CREDIT CHANGED

Section 28.26.(a) G.S. 115C-302.1(c) reads as rewritten:

"(c) Vacation. -- Included within the 10-month term shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth of the annual rate for State employees for each month of employment. Local boards shall provide at least 10 days of annual vacation leave at a time when students are not scheduled to be in regular attendance. However, instructional personnel who do not require a substitute may use annual vacation leave on days that students are in attendance. Vocational and technical education teachers who are employed for 11 or 12 months may, with prior approval of the principal, work on annual vacation leave days designated in the school calendar and may use those annual vacation leave days during the eleventh or twelfth month of employment.

On a day that pupils are not required to attend school due to inclement weather, but employees are required to report for a workday, a teacher may elect not to report due to hazardous travel conditions and to take an annual vacation day or to make the day at a time agreed upon by the teacher and the teacher's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, a teacher shall work on the scheduled makeup day.

All vacation leave taken by the teacher will be upon the authorization of the teacher's immediate supervisor and under policies established by the local board of education. Annual vacation leave shall not be used to extend the term of employment.

~~Teachers may accumulate annual vacation leave days without any applicable maximum until June 30 of each year. In order that only 30 days of annual vacation leave carry forward to July 1, on June 30 of each year any teacher or other personnel paid on the teacher salary schedule who has accumulated more than 30 days of annual vacation leave shall:~~

~~(1) Convert to either sick leave or pay the excess accumulation that is the result of the teacher having to forfeit annual vacation leave in order to attend required workdays; and~~

~~(2) Convert to sick leave the remaining excess accumulation.~~

~~Local boards of education shall identify which days are accumulated due to the teacher forfeiting annual vacation leave in order to attend required workdays. Actual payment for excess accumulated annual vacation leave may be made after July 1.~~

~~Upon separation from service due to service retirement, resignation, dismissal, reduction in force, or death, an employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 30 days. In addition to the maximum of 30 days pay for accumulated annual leave, upon separation from service due to service retirement, any teacher or other personnel paid on the teacher salary schedule with more than 30 days of accumulated annual vacation leave may convert some or all of the excess accumulation to sick leave for creditable service towards retirement or pay if the excess accumulation is the result of the teacher having to forfeit annual vacation leave in~~

~~order to attend required workdays. Local boards of education shall identify which days are accumulated due to the teacher forfeiting annual vacation leave in order to attend required workdays. Employees going onto term disability may exhaust annual leave rather than be paid in a lump sum.~~

Notwithstanding any provisions of this subsection to the contrary, no person shall be entitled to pay for any vacation day not earned by that person."

Section 28.26.(b) G.S. 115C-302.1 is amended by adding two new subsections to read:

"(c1) Conversion of Leave. -- Teachers may accumulate annual vacation leave days without any applicable maximum until June 30 of each year. In order that only 30 days of annual vacation leave carry forward to July 1, on June 30 of each year any teacher or other personnel paid on the teacher salary schedule who has accumulated more than 30 days of annual vacation leave shall:

(1) Convert to either sick leave or to pay the excess accumulation that is the result of the teacher having to forfeit annual vacation leave in order to attend required workdays; and

(2) Convert to sick leave the remaining excess accumulation.

Local boards of education shall identify which days are accumulated due to the teacher forfeiting annual vacation leave in order to attend required workdays. Actual payment for excess accumulated annual vacation leave may be made after July 1.

(c2) Conversion of Leave Upon Separation of Service. -- Upon separation from service due to service retirement, resignation, dismissal, reduction in force, or death, an employee shall be paid in a lump sum for accumulated annual vacation leave not to exceed a maximum of 30 days. Employees going onto term disability may exhaust annual leave rather than be paid in a lump sum.

Any teacher or other personnel paid on the teacher salary schedule who has more than 30 days of accumulated annual vacation leave at the time the person retires shall:

(1) Convert to either sick leave or to pay the excess accumulation that is the result of the teacher having to forfeit annual vacation leave in order to attend required workdays; and

(2) Convert to sick leave the remaining excess accumulation which may be used for creditable service at retirement in accordance with G.S. 135-4(e).

Local boards of education shall identify which days are accumulated due to the teacher forfeiting annual vacation leave in order to attend required workdays."

Section 28.26.(c) G.S. 115C-272(b)(2) reads as rewritten:

"(2) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals

and shall not be cumulative from one fiscal year to another fiscal year: Provided, that superintendents may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any superintendent with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the superintendent will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Section 28.26.(d) G.S. 115C-285(a)(2) reads as rewritten:

"(2) Supervisors and classified principals paid on an hourly or other basis whether paid from State or from local funds may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any supervisor or principals with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last

workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Section 28.26.(e) G.S. 115C-316(a)(3) reads as rewritten:

"(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. The first 10 days of annual leave earned by a 10- or 11-month employee during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Ten- or 11-month employees may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any of these employees with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by these employees shall be upon the authorization of their immediate supervisor and under policies established by the local board of education. Vacation leave for instructional personnel who do not require a substitute shall not be restricted to days that students are not in attendance. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Section 28.26.(f) G.S. 115C-316(a)(4) reads as rewritten:

"(4) Twelve-month school employees other than superintendents, supervisors and classified principals paid

on an hourly or other basis whether paid from State or from local funds may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any employee with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Requested by: Representatives Insko, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom, Wellons

FLEXIBLE BENEFITS PLAN

Section 28.27.(a) Section 14(i) of Chapter 1044 of the 1991 Session Laws, as amended by Section 42 of Chapter 561 of the 1993 Session Laws, Section 7.28A of Chapter 769 of the 1993 Session Laws, and Section 33.20 of S.L. 1997-443 reads as rewritten:

"(i) Subsections (a) through (d) of this section are effective January 1, 1990. Subsections (e) through (h) of this section are effective January 1, 1991. ~~Subsections (a) through (h) of this section shall expire December 31, 1999.~~"

Section 28.27.(b) The Office of State Personnel and the third-party administrator of the NC Flex Plan shall furnish to the Fiscal Research Division such information as is requested concerning the administration of the plan, including, if requested, a list of the enrolled employees in the program along with their social security numbers, unless prohibited by federal law.

Requested by: Representatives Redwine, Nesbitt, Easterling, Hardaway, Senators Plyler, Perdue, Odom

STATE EMPLOYEE HEALTH BENEFIT PLAN/ENHANCED PRESCRIPTION DRUG BENEFITS

Section 28.28.(a) G.S. 135-40.6(8)a. is repealed.

Section 28.28.(b) G.S. 135-40.5 is amended by adding the following new subsection to read:

"(g) Prescription Drugs. -- The Plan's allowable charges for prescription legend drugs to be used outside of a hospital or skilled nursing facility are ninety percent (90%) of the average wholesale price. A dispensing fee of six dollars ($6.00) per prescription shall also be an allowable charge for qualified providers. The Plan will pay allowable charges for each outpatient prescription drug less a copayment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars ($10.00) for each generic prescription, fifteen dollars ($15.00) for each branded prescription, and twenty dollars ($20.00) for each branded prescription with a generic equivalent drug. Prescriptions shall be for no more than a 34-day supply for the purposes of the copayments paid by each covered individual. By accepting the copayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: 'Caution: Federal Law Prohibits Dispensing Without Prescription.' Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required."

Section 28.28.(c) This section becomes effective January 1, 2000.

Requested by: Representatives Easterling, Hardaway, Redwine, Baddour, Senators Plyler, Perdue, Odom

STATE EMPLOYEE HEALTH BENEFIT PLAN/OPTIONAL PARTICIPATION BY FIREMEN, RESCUE SQUAD WORKERS, AND MEMBERS OF THE NATIONAL GUARD

Section 28.29.(a) G.S. 135-40 is amended by adding a new subsection to read:

"(a1) The State of North Carolina deems it to be in the public interest for North Carolina firemen, rescue squad workers, and members of the national guard, and certain of their dependents, who are not eligible for any other type of comprehensive group health insurance or other comprehensive group health benefits, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months, to be given the opportunity to participate in the benefits provided by the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan. Coverage under the Plan shall be voluntary for eligible firemen, rescue squad workers, and members of the national guard who elect participation in the Plan for themselves and their eligible dependents."

Section 28.29.(b) G.S. 135-40.1(3) reads as rewritten:

"(3) Dependent Child. -- A natural, legally adopted, or foster child of the employee and/or spouse, unmarried, up to the first of the month following his or her 19th birthday, whether or not the child is living with the employee, as long as the employee is legally responsible for such child's maintenance and support. Dependent child shall also include any child under age 19 who has reached his or her 18th birthday, provided the employee was legally responsible for such child's maintenance and support on his or her 18th birthday.

A foster child is covered (i) if living in a regular parent-child relationship with the expectation that the employee will continue to rear the child into adulthood, (ii) if at the time of enrollment, or at the time a foster child relationship is established, whichever occurs first, the employee applies for coverage for such child and submits evidence of a bona fide foster child relationship, identifying the foster child by name and setting forth all relevant aspects of the relationship, (iii) if the Claims Processor accepts the foster child as a participant through a separate written document identifying the foster child by name and specifically recognizing the foster child relationship, and (iv) if at the time a claim is incurred, the foster child relationship, as identified by the employee, continues to exist. Children placed in a home by a welfare agency which obtains control of, and provides for maintenance of, the child(ren), are not eligible participants.

Coverage may be extended beyond the 19th birthday under the following conditions:

a. If the dependent is a full-time student, between the ages of 19 and 26, who is pursuing a course of study that represents at least the normal workload of a full-time student at a school or college accredited by the state of jurisdiction.

b. The dependent is physically or mentally incapacitated to the extent that he or she is incapable of earning a living and (i) such handicap developed or began to develop before the dependent's 19th birthday, or (ii) such handicap developed or began to develop before the dependent's 26th birthday if the dependent was covered by the Plan in accordance with G.S. 135-40.1(3)a.

Dependent children of firemen, rescue squad workers, and members of the national guard are subject to the same terms and conditions as are other dependent children covered by this subdivision."

Section 28.29.(c) G.S. 135-40.1(6) reads as rewritten:

"(6) Employing Unit. -- A North Carolina School System; Community College; State Department, Agency or

Institution; Administrative Office of the Courts; or Association or Examining Board whose employees are eligible for membership in a State-Supported Retirement System. An employing unit also shall mean a charter school in accordance with Part 6A of Chapter 115C of the General Statutes whose board of directors elects to become a participating employer in the Plan under G.S. 135-40.3A. Bona fide fire departments, rescue or emergency medical service squads, and national guard units are deemed to be employing units for the purpose of providing benefits under this Article."

Section 28.29.(d) G.S. 135-40.1(7) reads as rewritten:

"(7) Enrollment. -- New employees must enroll themselves and their dependents within 30 days from the date of employment or from first becoming eligible on a noncontributory basis. Coverage may become effective on the first day of the month following date of entry on payroll or on the first day of the following month. New employees not enrolling themselves and their dependents within 30 days, or not adding dependents when first eligible as provided herein may enroll on the first day of any month but will be subject to a 12-month waiting period for preexisting health conditions, except for employees who elect to change their coverage in accordance with rules established by the Executive Administrator and Board of Trustees for optional prepaid hospital and medical benefit plans. Children born to covered employees having coverage type (2), or (3), as outlined in G.S. 135-40.3(d) shall be automatically covered at the time of birth without any waiting period for preexisting health conditions. Children born to covered employees having coverage type (1) shall be automatically covered at birth without any waiting period for preexisting health conditions so long as the Claims Processor receives notification within 30 days of the date of birth that the employee desires to change from coverage (1) to coverage type (2), or (3), provided that the employee pays any additional premium required by the coverage type selected retroactive to the first day of the month in which the child was born.

Newly acquired dependents (spouse/child) enrolled within 30 days of becoming an eligible dependent will not be subject to the 12-month waiting period for preexisting conditions. A dependent can become qualified due to marriage, adoption, entering a foster child relationship, due to the divorce of a dependent child or the death of the spouse of a dependent child, and at the beginning of each legislative session (applies only to enrolled legislators). Effective date for newly acquired dependents if application was made within the 30 days can be the first day of the

following month. Effective date for an adopted child can be date of adoption, or date of placement in the adoptive parent's home, or the first of the month following the date of adoption or placement. Firemen, rescue squad workers, and members of the national guard, and their eligible dependents are subject to the same terms and conditions as are new employees and their dependents covered by this subdivision. Enrollments in these circumstances must occur within 30 days of eligibility to enroll."

Section 28.29.(e) G.S. 135-40.1 is amended by adding the following new subdivisions to read:

. . .

"(7c) Firemen. -- Eligible firemen as defined by G.S. 58-86-25 who belong to a bona fide fire department as defined by G.S. 58-86-25 and who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Firemen shall also include members of the North Carolina Firemen and Rescue Squad Workers' Pension Fund who are in receipt of a monthly pension, who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Comprehensive group health insurance and other benefit coverage consists of inpatient and outpatient hospital and medical benefits, as well as other outpatient medical services, prescription drugs, medical supplies, and equipment that are generally available in the health insurance market. Comprehensive group health insurance and other benefit coverage includes Medicare benefits, CHAMPUS benefits, and other Uniformed Services benefits. North Carolina fire departments or their respective governing bodies shall certify the eligibility of their firemen to the Plan for their participation in its benefits prior to enrollment.

. . .

(13b) National guard members. -- Members of the North Carolina army and air national guard who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Members of the North Carolina army and air national guard include those who are actively serving in the national guard as well as

former members of the national guard who have completed 20 or more years of service in the national guard but have not attained the minimum age to begin receipt of a uniformed service military retirement benefit. Comprehensive group health insurance and other benefit coverage consists of inpatient and outpatient hospital and medical benefits, as well as other outpatient medical services, prescription drugs, medical supplies, and equipment that are generally available in the health insurance market. Comprehensive group health insurance and other benefit coverage includes Medicare benefits, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, and other Uniformed Services benefits. North Carolina national guard units shall certify the eligibility of their members to the Plan for their participation in its benefits prior to enrollment.

. . .

(16a) Rescue squad workers. -- Eligible rescue squad workers as defined by the provisions of G.S. 58-86-30 who belong to a rescue or emergency medical services squad as defined by the same statute and who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Rescue squad workers shall also include members of the North Carolina Firemen and Rescue Squad Workers' Pension Fund who are in receipt of a monthly pension, who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Comprehensive group health insurance and other benefit coverage consists of inpatient and outpatient hospital and medical benefits, as well as other outpatient medical services, prescription drugs, medical supplies, and equipment that are generally available in the health insurance market. Comprehensive group health insurance and other benefit coverage includes Medicare benefits, CHAMPUS benefits, and other Uniformed Services benefits. North Carolina rescue or emergency medical services squads or their respective governing bodies shall certify the eligibility of their rescue squad workers to the Plan for their participation in its benefits prior to enrollment."

Section 28.29.(f) G.S. 135-40.2(b) is amended by adding a new subdivision to read:

"(13) Firemen, rescue squad workers, and members of the national guard, their eligible spouses, and eligible dependent children."

Section 28.29.(g) G.S. 135-40.3 is amended by adding a new subsection to read:

"(f) Firemen, rescue squad workers, and members of the national guard are subject to the same terms and conditions of this section as are employees. Eligible dependents of firemen, rescue squad workers, and members of the national guard are subject to the same terms and conditions of this section as are dependents of employees."

Section 28.29.(h) G.S. 135-39.6A is amended by adding a new subsection to read:

"(d) In setting premiums for firemen, rescue squad workers, and members of the national guard, and their eligible dependents, the Executive Administrator and Board of Trustees shall establish rates separate from those affecting other members of the Plan. These separate premium rates shall include rate factors for incurred but unreported claim costs, for the effects of adverse selection from voluntary participation in the Plan, and for any other actuarially determined measures needed to protect the financial integrity of the Plan for the benefit of its served employees, retired employees, and their eligible dependents."

Section 28.29.(i) This section becomes effective July 1, 2000.

PART XXIX. GENERAL CAPITAL APPROPRIATIONS/PROVISIONS

INTRODUCTION

Section 29. The appropriations made by the 1999 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 29.1. Appropriations are made from the General Fund of the State for the 1999-2001 biennium for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund	1999-2000
Department of Administration	
1. Indian Cultural Center - Reserve Establishes a reserve to be used for land acquisition	$ 250,000
Department of Agriculture and Consumer Services	
1. Construction of Multipurpose Building	

Funds construction of multipurpose facility at the State Fairgrounds. Appropriation for design and site development was made in 1998 Session 9,500,000

2. Eastern Agriculture Center
Funds for continued development of the Eastern Agriculture Center 1,000,000
3. Western North Carolina Farmers Market
Provides for expansion of the Small Dealers Building at the Western North Carolina Farmers Market 250,000
4. Southeastern Farmers Market and Agriculture Center
Continued development of the Southeastern Farmers Market and Agriculture Center 500,000
5. Vernon James Research & Extension Center
Funds Phase II of the Headhouse-Greenhouse project 827,168

Department of Community Colleges
1. Community College Grants
Grant-in-aid of $250,000 to each of 58 existing community colleges for purposes of capital improvement or land acquisition. These funds are not subject to a matching requirement 14,500,000

Department of Cultural Resources
1. Museum of Art Expansion and Renovation
Continued development of the expansion and renovation of the North Carolina Museum of Art 1,000,000

Department of Environment and Natural Resources
1. Civil Works Projects
Provides State match for civil works projects. Specific projects are listed in special provision entitled "Water Resources Project Development Funds." 9,245,000
2. Museum of Natural Sciences
Provides funds for facility upfit and preparation of exhibits 4,000,000
3. Reserve for Forestry Headquarters
Provides funds for construction of Division of Forestry county headquarters. Projects are to be identified by the Department in accordance with needs priority 2,000,000
4. Museum of Forestry
Provides capital funds for the Museum of Forestry in Columbus County 250,000

Department of Health and Human Services
1. Whitaker School Construction 5,400,000

2. Eastern Vocational Rehab Facility
Provides supplemental funds for repairs and renovations at the Eastern Vocational Rehabilitation Facility in Goldsboro 2,000,000

Office of Juvenile Justice
1. Stonewall Jackson Training School
Provides funds for demolition and removal of old homes on confined grounds at Stonewall Jackson School 337,000

State Ports
1. Port Facilities
Provides funds to continue ports facilities development in accordance with Ports Authority schedule of priorities 6,000,000

University of North Carolina - Board of Governors
1. Focused Enrollment Growth Capital
Provides supplemental funds to meet repair and renovations needs on campuses with planned high enrollment growth. Related special provision is entitled "UNC Enrollment/Capital." 20,000,000

TOTAL CAPITAL APPROPRIATION $ 77,059,168

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

Section 29.2.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

	Name of Project	
(1)	Wilmington Harbor Deepening	$5,700,000
(2)	B. Everett Jordan Lake Water Supply	100,000
(3)	Aquatic Plant Control Statewide and Lake Gaston	150,000
(4)	Manteo Shallowbag Bay Maintenance Dredging	350,000
(5)	Long Beach Sea Turtle Habitat Restoration	354,000
(6)	Lockwood Folly River Feasibility Study	300,000
(7)	Silver Lake Harbor (Ocracoke Island) Maintenance Dredging	160,000
(8)	State-Local Water Projects	750,000
	a. Mitchell River Stream Restoration (Surry County)	166,000
	b. Muddy Creek Stream Restoration (McDowell and Burke Counties)	50,000

c.	Elk River Stream Restoration (Avery County)	35,000
d.	Bethesda Road Drainage (Southern Pines, Moore County)	70,000
e.	Artillery Road Drainage (Southern Pines, Moore County)	30,000
f.	Bear Creek Water Management Project Supplement (Wayne County)	30,000
g.	Flowers Cut Dredging (Pamlico County)	20,000
h.	Pine Knoll Shores Access Dredging (Carteret County)	32,000
i.	Town Creek Navigation (Brunswick County)	64,000
j.	Town of River Bend Navigation Supplement (Craven County)	112,000
k.	Other Stream Restoration Projects	141,000
(9)	Stumpy Point Bay Maintenance Dredging	240,000
(10)	Cape Fear above Wilmington Dredging	100,000
(11)	Moravian Creek Flood Control	96,000
(12)	Neuse River Basin Flood Studies	100,000
(13)	Wanchese Harbor Navigation	170,000
(14)	Battery Island Bird Habitat Protection	205,000
(15)	Prospective Feasibility Studies	200,000
(16)	Planning Assistance to NC Communities	150,000
(17)	Emergency Flood Control Projects	120,000
	Total	$9,245,000

Section 29.2.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1999-2000 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.

(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1999-2000.

(3) State-local water resources development projects. Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2000-2001 fiscal year.

Section 29.2.(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

Section 29.2.(d) Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 1999-2000 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom, Albertson

FORESTRY HEADQUARTERS IN SAMPSON AND MOORE COUNTIES/UNUSED CAPITAL APPROPRIATION

Section 29.3. Any remaining funds from the seven hundred thousand dollars ($700,000) appropriated during the 1998 Session of the General Assembly for the construction of forestry headquarters in Sampson and Moore Counties may be used to supplement projects previously appropriated by the General Assembly.

Requested by: Representatives Wright, Owens, Fox, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

REALLOCATE SOUTHEASTERN FARMERS MARKET AND AGRICULTURAL CENTER FUNDS

Section 29.4. Of the sum of five hundred thousand dollars ($500,000) that was appropriated to the Department of Agriculture and Consumer Services for the 1998-99 fiscal year to provide for capital improvement projects in Section 29 of S.L. 1998-212 for continued development of the Southeastern Farmers Market and Agricultural Center, up to two hundred fifty thousand dollars ($250,000) may be used for the construction of electronic message boards to inform the public of the location of, and events and available produce at, the Southeastern Farmers Market and Agricultural Center.

Requested by: Representatives Hardaway, Oldham, Boyd-McIntyre, Rogers, Wright, Easterling, Redwine, Senators Dalton, Lee, Ballance, Dannelly, Jordan, Lucas, Martin of Guilford, Shaw of Cumberland, Plyler, Perdue, Odom

UNC ENROLLMENT/CAPITAL

Section 29.5. In this act the sum of twenty million dollars ($20,000,000) in additional capital improvement funds for facilities'

renovations and repairs is appropriated to the Board of Governors of The University of North Carolina. The Board of Governors shall allocate these funds among the constituent institutions that are expected to grow in enrollment by twenty percent (20%) by fall, 2003 and who had facility condition and quality index ratings below The University of North Carolina System average, as identified in the report to the Board of Governors "Building for the New Millennium: Volume I".

The funds shall be allocated to the campuses meeting the above criteria, with fifty percent (50%) of the funds allocated based on relative dollar needs for repairs and renovations, and fifty percent (50%) of the funds allocated based on the relative facility condition and quality indices of these campuses.

The Board of Governors shall report the proposed allocation to the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Dalton, Lee, Plyler, Perdue, Odom

UNC-CHARLOTTE CAPITAL FUNDS REALLOCATED

Section 29.6. Funds in the amount of twelve million dollars ($12,000,000) were appropriated for the 1998-99 fiscal year to the Board of Governors of The University of North Carolina for the University of North Carolina at Charlotte for capital projects. Of those funds appropriated in the 1998-99 fiscal year for capital projects at the University of North Carolina at Charlotte, the sum of two million five hundred thousand dollars ($2,500,000) shall be used for advanced planning of the Science and Technology Building at the University of North Carolina at Charlotte, and the balance of those funds shall be used for site preparation and for construction of Phase 1 of the Humanities Building at the University of North Carolina at Charlotte.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

KELLOGG CENTER FUNDS DO NOT REVERT

Section 29.6A.(a) Funds in the amount of six hundred eighty-one thousand two hundred seventy-seven dollars ($681,277) appropriated to the Board of Governors of The University of North Carolina for the building of the Center for Craft, Creativity and Design at the Kellogg Center of the University of North Carolina at Asheville shall not revert but shall remain available for expenditure for the project.

Section 29.6A.(b) This section becomes effective June 30, 1999.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Dalton, Lee, Perdue, Plyler, Odom

POLYMERS CENTER OF EXCELLENCE FUNDS

Section 29.6B. Funds appropriated in Section 34.1 of S.L. 1997-443 to the Board of Governors of The University of North

Carolina for the University of North Carolina at Charlotte for the "Construction of a new building for Polymer Extension Program" that remain unexpended or unobligated shall be transferred to the Polymers Center of Excellence for provision of facilities for operations of the Center.

Requested by: Representatives Easterling, Hardaway, Redwine, Moore, Senators Jordan, Plyler, Perdue, Odom

STONEWALL JACKSON FUNDS

Section 29.6C. Of the funds appropriated to the Office of Juvenile Justice, the sum of three hundred thirty-seven thousand dollars ($337,000) for the 1999-2000 fiscal year shall be used to remove, by relocation or demolition, buildings located on the grounds of the Stonewall Jackson Training School that contain hazardous asbestos materials and pose safety threats to the students and staff of the school. Notwithstanding G.S. 146-30, the Stonewall Jackson Training School in Cabarrus County may retain the net proceeds from the sale or lease of historic properties at the School to be used for capital improvements at the School.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

PROCEDURES FOR DISBURSEMENT

Section 29.7. The appropriations made by the 1999 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 1999 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in

this act. Capital improvement projects authorized by the 1999 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Section 29.8. When each capital improvement project appropriated by the 1999 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under a construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS

Section 29.9. Of the funds in the Reserve for Repairs and Renovations for the 1999-2000 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the

Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, for their review, the proposed allocations of these funds. Subsequent changes in the proposed allocations shall be reported prior to expenditure to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING APPROVAL/REPORTING REQUIREMENT

Section 29.10. Each department receiving capital improvement appropriations from the Highway Fund under this act shall report quarterly to the Director of the Budget on the status of those capital projects. The reporting procedure to be followed shall be developed by the Director of the Budget.

Highway Fund capital improvement projects authorized in this act that have not been placed under contract for construction due to insufficient funds may be supplemented with funds identified by the Director of the Budget, provided:

(1) That the project was designed and bid within the scope as authorized by the General Assembly;

(2) That the funds to supplement the project are from the same source as authorized for the original project;

(3) That the department to which the project was authorized has unsuccessfully pursued all statutory authorizations to award the contract; and

(4) That the action be reported to the Fiscal Research Division of the Legislative Services Office.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

PROJECT COST INCREASE

Section 29.11. Upon the request of the administration of a State agency, department, or institution, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

NEW PROJECT AUTHORIZATION

Section 29.12. Upon the request of the administration of any State agency, department, or institution, the Governor may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Provided, however, that if the Director of the Budget authorizes the construction of such a capital improvement project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

Section 29.13. Funds that become available by gifts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly, or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

Requested by: Representatives Wright, Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

APPROPRIATIONS LIMITS/REVERSION OR LAPSE

Section 29.14. Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 1999 General Assembly may be expended only for specific projects set out by the 1999 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 1999 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and

self-liquidating appropriations may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

PART XXX. MISCELLANEOUS PROVISIONS

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

EXECUTIVE BUDGET ACT APPLIES

Section 30. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

COMMITTEE REPORT

Section 30.1.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated June 29, 1999, which was distributed in the House of Representatives and the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

Section 30.1.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 1999-2001 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, in accordance with the steps that follow and the line item detail in the budget enacted by the General Assembly may be derived accordingly:

(1) The reserve for debt service set out in the submitted budget was adjusted to meet actual requirements.

(2) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budget, dated June 29, 1999, together with any accompanying correction sheets.

(3) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on

the Continuation, Expansion and Capital Budget, dated June 29, 1999, together with any accompanying correction sheets.

The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

MOST TEXT APPLIES ONLY TO 1999-2001

Section 30.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1999-2001 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1999-2001 fiscal biennium.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

EFFECT OF HEADINGS

Section 30.3. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

SEVERABILITY CLAUSE

Section 30.4. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Representatives Easterling, Hardaway, Redwine, Senators Plyler, Perdue, Odom

EFFECTIVE DATE

Section 30.5. Except as otherwise provided, this act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 4:23 p.m. on the 30th day of June, 1999.

S.B. 618 **SESSION LAW 1999-238**

AN ACT TO ENABLE THE COUNTY OF MACON TO ESTABLISH AN AIRPORT AUTHORITY FOR THE MAINTENANCE OF AIRPORT FACILITIES IN THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the "Macon County Airport Authority" (for brevity hereinafter referred to as the "Airport Authority"), which shall be a body both corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly.

Section 2. The Airport Authority shall consist of five members, who shall be residents of Macon County and who shall be appointed to staggered terms of six years by the Macon County Board of Commissioners. Members may succeed themselves in office and serve more than one term. Two initial appointments to the Airport Authority shall be for two years, two initial appointments to the Airport Authority shall be for four years, and the remaining initial appointment to the Airport Authority shall be for six years.

When vacancies occur in the membership of the Airport Authority, for any reason, the remaining members of the Airport Authority shall submit a list of two or more candidates to the Macon County Board of Commissioners. The Board of Commissioners shall either select one from that list to fill the unexpired term of the vacant office or shall request that the Airport Authority submit additional candidates. The Airport Authority shall submit additional candidates upon request until the Board of Commissioners selects a member from the candidates submitted.

Each member shall take and subscribe before the Clerk of Superior Court of Macon County an oath of office and file the same with the Macon County Board of Commissioners. Membership on the Macon County Board of Commissioners and the Airport Authority shall not constitute double office holding within the meaning of Article VI, Section 9, of the Constitution of North Carolina.

Section 3. The Airport Authority may adopt suitable bylaws for its management. The members of the Airport Authority may receive compensation, per diem, or otherwise as the Macon County Board of Commissioners from time to time determines. Members shall be allowed and paid their actual expenses incurred in transacting the business and at the instance of the Airport Authority. Members of the Airport Authority shall not be personally liable for their acts as members of the Airport Authority, except for acts resulting from misfeasance or malfeasance.

Section 4.(a) The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

(1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports and landing fields for the use of airplanes and other aircraft within the limits of the county and for this purpose to purchase, improve, own, hold, lease, or operate real or personal property. The Airport Authority may exercise these powers alone or in conjunction with the County of Macon.

(2) To sue and be sued in the name of the Airport Authority, to make contracts and hold any personal property necessary for the exercise of the powers of the Airport Authority, and acquire by purchase, lease, or otherwise any existing lease, leasehold right, or other interest in any existing airport located in the county.

(3) To charge and collect reasonable and adequate fees and rents for the use of airport property or for services rendered in the operation of the airport.

(4) To make all reasonable rules and regulations it deems necessary for the proper maintenance, use, operation, and control of the airport, including public safety, and provide penalties for the violation of these rules and regulations; provided, the rules and regulations and schedules of fees not be in conflict with the laws of North Carolina and the regulations of the Federal Aviation Administration. The Airport Authority may administer and enforce any airport zoning regulations adopted by the County of Macon.

(5) To issue bonds pursuant to Article 5 of Chapter 159 of the General Statutes.

(6) To sell, lease, or otherwise dispose of any property, real or personal, belonging to the Airport Authority, according to the procedures described in Article 12 of Chapter 160A of the General Statutes, but no sale of real property shall be made without the approval of the Macon County Board of Commissioners.

(7) To purchase any insurance that the Federal Aviation Administration or the Airport Authority shall deem necessary. The Airport Authority shall be responsible for any and all insurance claims or liabilities.

(8) To deposit or invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended from time to time, for the deposit or investment of unit funds.

(9) To purchase any of its outstanding bonds or notes.

(10) To operate, own, lease, control, regulate, or grant to others, for a period not to exceed 20 years, the right to operate on any airport premises restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barbershops, automobile parking and storage facilities, automobile service establishments, and all

other types of facilities as may be directly or indirectly related to the maintenance and furnishing to the general public of a complete air terminal installation.

(11) To contract with persons, firms, or corporations for terms not to exceed 20 years, for the operation of airline-scheduled passenger and freight flights, nonscheduled flights, and any other airplane activities not inconsistent with the grant agreements under which the airport property is held.

(12) To erect and construct buildings, hangars, shops, and other improvements and facilities, not inconsistent with or in violation of the agreements applicable to and the grants under which the real property of the airport is held; to lease these improvements and facilities for a term or terms not to exceed 20 years; to borrow money for use in making and paying for these improvements and facilities, secured by and on the credit only of the lease agreements in respect to these improvements and facilities, and to pledge and assign the leases and lease agreements as security for the authorized loans.

(13) Subject to the limitations set out in this act, to have all the same power and authority granted to cities and counties pursuant to Chapter 63 of the General Statutes, Aeronautics.

(14) To have a corporate seal, which may be altered at will.

Section 4.(b) The Airport Authority shall possess the same exemptions in respect to payment of taxes and license fees and be eligible for sales and use tax refunds to the same extent as provided for municipal corporations by the laws of the State of North Carolina.

Section 5. The Airport Authority may acquire from the county, by agreement with the county, and the county may grant and convey, either by gift or for such consideration as the county may deem wise, any real or personal property which it now owns or may hereafter acquire, including nontax monies, and which may be necessary for the construction, operation, and maintenance of any airport located in the county.

Section 6. Any lands acquired, owned, controlled, or occupied by the Airport Authority shall be, and are declared to be, acquired, owned, controlled, and occupied for a public purpose.

Section 7. Private property needed by the Airport Authority for any airport, landing field, or as facilities of an airport or landing field, may be acquired by gift or devise, or may be acquired by private purchase or by the exercise of eminent domain pursuant to Chapter 40A of the General Statutes, as a local public condemnor, including the provisions of G.S. 40A-42. If property acquired by gift, devise, purchase, or condemnation has a burial ground or graveyard, then it shall be lawful for the Airport Authority, after 30 days' notice to the surviving spouse or next of kin of the deceased buried there or the person in control of the graves, if they are known, to remove the

interred body and reinter the body in another cemetery in Macon County. If no surviving spouse or next of kin or person in control can be found, then the Airport Authority may advertise for four consecutive weeks in a newspaper published in Macon County of the intended removal of the graves. The removal shall then be conducted under the supervision of the Clerk of the Superior Court of Macon County or his or her representative. The expense of the removal shall be borne by the Airport Authority.

Section 8. The Airport Authority shall make an annual report to the Macon County Board of Commissioners setting forth in detail the operations and transactions conducted by it pursuant to this act. The Airport Authority shall not have the power to pledge the credit of Macon County, or any subdivision thereof, or to impose any obligation on Macon County, or any of its subdivisions, except when that power is expressly granted by statute.

Section 9. Subject to the limitations as set out in this act, all rights and powers given and granted to counties or municipalities by general law, which may now be in effect, or enacted in the future, relating to the development, regulation, and control of municipal airports and the regulation of aircraft are now concurrently vested in the Airport Authority. The Macon County Board of Commissioners may delegate its powers under these acts to the Airport Authority, and the Airport Authority shall have concurrent rights with Macon County to control, regulate, and provide for the development of aviation in Macon County.

Section 10. The Airport Authority may contract with and accept grants from the Federal Aviation Administration, the State of North Carolina, or any of the agencies or representatives of either of said governmental bodies relating to the purchase of land and air easements and to the grading, constructing, equipping, improving, maintaining, or operating of an airport or its facilities or both.

Section 11. The Airport Authority may employ or contract with any agents, engineers, attorneys, and other persons whose services may be deemed by the Airport Authority to be necessary and useful in carrying out the provisions of Sections 1 through 10 of this act.

Section 12. The Macon County Board of Commissioners may appropriate funds derived from any source including ad valorem taxes to carry out the provisions of this act in any proportion or upon any basis as may be determined by the Macon County Board of Commissioners. The Macon County Board of Commissioners may provide county services to the Airport Authority upon any basis as may be determined by the Macon County Board of Commissioners.

Section 13. The Airport Authority may expend the funds that are appropriated by the county for joint airport purposes and may pledge the credit of the Airport Authority to the extent of the appropriated funds.

Section 14. The Airport Authority shall elect from among its members a chair and other officers at its initial meeting and then biennially thereafter. Officers shall be eligible to succeed themselves

in office and to serve consecutive terms at the will of the members of the Airport Authority. A majority of the Airport Authority shall control its decisions. Each member of the Airport Authority, including the chair, shall have one vote. The Airport Authority shall meet at the places and times designated by the chair.

Section 15. If an airport established pursuant to this act ceases to be operated by the Airport Authority, or if any property acquired pursuant to this act for airport purposes is abandoned, then the title to that real or personal property, or rights under any existing lease, shall revert to and vest in the County of Macon and on the sale of that property, the proceeds shall vest totally in the County of Macon.

Section 16. The powers granted to the Airport Authority shall not be effective until the members of the Airport Authority have been appointed by the Macon County Board of Commissioners, and nothing in this act shall require the Board of Commissioners to make the initial appointments. It is the intent of this act to enable but not to require the formation of the Macon County Airport Authority.

Section 17. If any one or more sections, clauses, sentences, or parts of this act shall be adjudged invalid, such judgment shall not affect, impair, or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions held invalid, and the inapplicability or invalidity of any section, clause, sentence, or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Section 18. Chapter 955 of the 1989 Session Laws is repealed, except for Section 10.

Section 19. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law on the date it was ratified.

S.B. 18 **SESSION LAW 1999-239**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CARTHAGE, AND CONCERNING AN ANNEXATION AGREEMENT BETWEEN THAT TOWN AND THE VILLAGE OF PINEHURST.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Carthage is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF CARTHAGE.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Carthage, North Carolina, in Moore County and the inhabitants thereof shall continue

to be a municipal body politic and corporate, under the name of the 'Town of Carthage,' hereinafter at times referred to as the 'Town.'

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Carthage specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Moore County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Town Council, hereinafter referred to as the 'Council,' and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies

that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Council.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 1999 and each four years thereafter.

"Section 3.3. **Election of Council Members.** In the regular municipal election in 1997, the three candidates for Council member who received the highest numbers of votes shall be elected for four-year terms, while the two candidates who receive the next highest numbers of votes shall be elected for two-year terms. In the regular municipal election in 1999, and in each regular municipal election thereafter, persons shall be elected to serve four-year terms in those positions whose terms are then expiring.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **Settlement of Claims by Town Manager.** The Council may authorize the Town Manager to settle claims against the Town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the Town Attorney.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Section 5.1. **Town Attorney.** The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct.

"Section 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Manager may direct. The Manager may appoint an Assistant or Deputy Town Clerk.

"Section 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S. 105-349, the Manager may appoint and remove the Tax Collector and one or more Deputy Tax Collectors.

"Section 5.4. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, except the Town Attorney, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Council nor any of its committees or members shall take part in the appointment or removal of officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the Council and its members shall deal with officers and employees in the administrative service only through the Manager, Acting Manager, or Interim Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Manager, Acting Manager, or Interim Manager, either publicly or privately.

"ARTICLE VI. REMOVAL OF MOTOR VEHICLES.

"Section 6.1. **Liens for Removal of Motor Vehicles.** Pursuant to the authority granted by G.S. 160A-303 and G.S. 160A-303.2 and Chapter 451 of the Session Laws of 1987, the Council may establish reasonable towing fees for the cost of removing junked motor vehicles from private property. When the town causes the removal of a junked motor vehicle from private property pursuant to the authority granted by G.S. 160A-303 and G.S. 160A-303.2 and Chapter 451 of the Session Laws of 1987, and the owner of the vehicle fails to pay the towing fee within 30 days after it becomes due, the towing fee shall

become a lien against the real property from which the vehicle was removed provided the owner of the real property from which the vehicle was removed was also the owner of the junked motor vehicle; said cost shall be placed upon the Town's tax books against the property and may be collected and foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the Town may determine.

"ARTICLE VII. EXTRATERRITORIAL POWERS.

"Section 7.1. **Extraterritorial Jurisdiction.** The Town shall have and may exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes within an extraterritorial area which it shall define. Despite the contrary provisions of G.S. 160A-360, the Town may, with the approval of the board of county commissioners, extend its extraterritorial area up to two miles outside the corporate limits."

Section 2. The purpose of this act is to revise the Charter of the Town of Carthage and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 85, Private Laws of 1796
Chapter 28, Private Laws of 1803
Chapter 113, Private Laws of 1812
Chapter 74, Private Laws of 1818, except for Section 1
Chapter 89, Private Laws of 1827-28
Chapter 30, Private Laws of 1832-33
Chapter 207, Private Laws of 1847
Chapter 124, Private Laws of 1871-72
Chapter 176, Private Laws of 1874-75
Chapter 32, Private Laws of 1881
Chapter 248, Private Laws of 1901
Chapter 299, Private Laws of 1903
Chapter 482, Private Laws of 1907, except for Sections 50 through 64
Chapter 166, Private Laws of 1909
Chapter 209, Private Laws of 1913
Chapter 33, Private Laws of 1924 (Extra Session)
Chapter 203, Private Laws of 1925
Chapter 862, Session Laws of 1945
Chapter 962, Session Laws of 1965.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Section 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions, and other provisions of the Town of Carthage not inconsistent with the provisions of this act or State law shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 11.(a) The Village of Pinehurst and the Town of Carthage may enter into an annexation agreement under Part 6 of Article 4A of Chapter 160A of the General Statutes which includes any or all of the following:

(1) Notwithstanding G.S. 160A-58.24(d), the agreement may not be terminated by the two municipalities before its set expiration; and

(2) G.S. 160A-58.27(i) shall not apply.

Section 11.(b) The boundary under any annexation agreement including any of the provisions of subsection (a) of this section shall be:

McNeill Township, Moore County, North Carolina, lying on the east side of Murdocksville Road (S.R. 1209), north side of the channel of Little River, and the centerlines of U.S. Highway 15-501 and McCaskill Road (S.R. 1838); described as follows;

Beginning at a point in the centerline of Murdocksville Road (S.R. 1209) at the point where Little River crosses the road, said point being 4,960.00 feet south of the intersection of Murdocksville Road (S.R. 1209) and Doub's Chapel Road (S.R. 1224); running thence in an easterly direction 9,840.00 feet along the north bank of the channel of Little River to a point in the centerline of U.S. Highway 15-501 at the point where Little River crosses the road, said point being 875.00 feet south of the intersection of U.S. Highway 15-501 and Doub's Chapel Road (S.R. 1224); running thence in a southerly direction 5,760.00 feet to a point in the centerline of U.S. Highway 15-501 at the

intersection of U.S. Highway 15-501 and McCaskill Road (S.R. 1838); running thence in an easterly direction 2,405.00 feet to a point in the centerline of McCaskill Road (S.R. 1838) at the intersection of McCaskill Road (S.R. 1838) and Napier Road (S.R. 1839).

Section 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law on the date it was ratified.

H.B. 570 **SESSION LAW 1999-240**

AN ACT TO REMOVE THE TOWN OF CAROLINA SHORES FROM THE 201 PLANNING AREA IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Town of Carolina Shores is removed from the 201 Planning Area in Brunswick County.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law on the date it was ratified.

H.B. 863 **SESSION LAW 1999-241**

AN ACT TO INCORPORATE THE TOWN OF ST. JAMES.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of St. James is enacted to read:

"CHARTER OF THE TOWN OF ST. JAMES.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation.** The inhabitants of the Town of St. James are a body corporate and politic under the name 'Town of St. James'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Corporate Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of St. James are as follows:

Beginning at a point in Brunswick County in the southern right-of-way of N.C. Highway 211 (150' right-of-way) where it intersects the eastern right-of-way of St. James Drive (60' right-of-way), said point having the following NCGS (NAD 1983) coordinates: (N) 78344.141 (E) 2276451.136 and being located N 77^ 16'46"W 2,027.09' from NCGS Monument "System" having NCGS (NAD 1983) coordinates: (N) 77897.789 (E) 2278428.469 thence from said beginning point and

with the southern right-of-way of N.C. Highway 211 N74°25'16"W a distance of 99.99' to a point; thence leaving the right-of-way of N.C. 211 S 15°34'51" W a distance of 800.35' to a point; thence with a curve turning to the left with an arc length of 587.75', with a radius of 1680.00', with a chord bearing of S 05°33'29" W, with a chord length of 584.76' to a point, thence S 04°27'52" E a distance of 148.27' to a point; thence with a curve turning to the left with an arc length of 236.19', with a radius of 550.00', with a chord bearing of S 16°46'00" E, with a chord length of 234.38' to a point, thence S 29°04'08" E a distance of 66.08' to a point; thence with a curve turning to the right with an arc length of 182.71', with a radius of 450.00', with a chord bearing of S 17°26'15" E, with a chord length of 181.46' to a point, thence S 05°48'21" E a distance of 527.02' to a point; thence with a curve turning to the right with an arc length of 207.11', with a radius of 600.00', with a chord bearing of S 04°04'59" W, with a chord length of 206.09' to a point, thence S 13°57'20" W a distance of 402.85' to a point; thence with a curve turning to the right with an arc length of 148.95', with a radius of 300.00', with a chord bearing of S 28°10'45" W, with a chord length of 147.42' to a point, thence S 42°24'10" W a distance of 12.48' to a point; thence with a curve turning to the left with an arc length of 90.86', with a radius of 400.00', with a chord bearing of S 35°53'45" W, with a chord length of 90.66' to a point, thence S 29°23'19" W a distance of 517.06' to a point; thence with a curve turning to the right with an arc length of 42.51', with a radius of 450.00', with a chord bearing of S 32°05'42" W, with a chord length of 42.50' to a point, thence S 34°48'06" W a distance of 237.35' to a point; thence with a curve turning to the left with an arc length of 32.93', with a radius of 550.00', with a chord bearing of S 33°05'11" W, with a chord length of 32.93' to a point, thence S 31°22'15" W a distance of 183.56' to a point; thence with a curve turning to the right with an arc length of 215.42', with a radius of 450.00', with a chord bearing of S 45°05'06" W, with a chord length of 213.37' to a point, thence S 58°47'57" W a distance of 260.77' to a point; thence with a curve turning to the left with an arc length of 314.67', with a radius of 328.00', with a chord bearing of S 31°18'57" W, with a chord length of 302.74' to a point, thence S 03°49'57" W a distance of 147.44' to a point; thence with a curve turning to the right with an arc length of 124.44', with a radius of 450.00', with a chord bearing of S 11°45'04" W, with a chord length of 124.05' to a point, thence S 19°40'24" W a distance of 170.28' to a point; thence with a curve turning to the right with an arc length of 60.46', with a radius of 450.00', with a chord bearing of S 23°31'17" W, with a chord length of 60.42' to a point, thence S 27°22'15" W a distance of 138.07' to a point; thence with a curve with a curve turning to the right with an arc length of 83.11', with a radius of 125.00', with a chord bearing of S 46°25'01" W, with a chord length of 81.58' to a point, thence S 65°27'48" W a distance of 123.95' to a point; thence with a curve turning to the left with an arc length of 243.93', with a radius of

360.00', with a chord bearing of S 46°03'06" W, with a chord length of 239.29' to a point, thence leaving the western right-of-way of St. James Drive S 26°38'25" W a distance of 1361.82' to a point; thence N 83°47'32" W a distance of 76.07' to a point; thence N 40°40'56" W a distance of 389.99' to a point; thence S 89°54'30" W a distance of 595.97' to a point; thence N 57°29'54" W a distance of 381.45' to a point; thence N 61°14'54" W a distance of 748.22' to a point; thence N 67°14'54" W a distance of 498.86' to a point; thence N 61°59'54" W a distance of 698.34' to a point; thence N 68°59'54" W a distance of 868.05' to a point; thence N 71°44'54" W a distance of 798.25' to a point; thence S 35°45'39" W a distance of 1597.66' to a point; thence N 72°33'51" W a distance of 334.89' to a point; thence N 22°03'26" W a distance of 63.98' to a point; thence N 34°28'38" W a distance of 406.82' to a point; thence N 61°10'21" W a distance of 529.33' to a point; thence S 68°51'52" W a distance of 404.85' to a point; thence N 45°42'34" W a distance of 286.92' to a point; thence S 39°00'35" W a distance of 1149.41' to a point; thence N 52°51'07" W a distance of 245.46' to a point; thence N 66°04'17" W a distance of 387.18' to a point; thence S 88°51'54" W a distance of 641.57' to a point; thence S 64°35'37" W a distance of 888.62' to a point; thence S 08°35'12" E a distance of 162.83' to a point; thence S 14°40'o7" E a distance of 51.93' to a point; thence S 16°48'58" W a distance of 172.04' to a point; thence S 14°59'46" W a distance of 60.34' to a point; thence S 35°15'21" W a distance of 213.23' to a point; thence N 39°03'27" W a distance of 74.23' to a point; thence S 82°56'36" W a distance of 129.24' to a point; thence S 16°00'33" W a distance of 157.32' to a point; thence S 05°00'25" E a distance of 573.17' to a point; thence S 26°37'19" E a distance of 69.25' to a point; thence N 88°50'46" E a distance of 127.72' to a point; thence S 26°26'11" E a distance of 379.07' to a point; thence S 29°18'59" W a distance of 70.19' to a point; thence S 21°44'24" E a distance of 460.72' to a point; thence S 35°06'09" W a distance of 693.95' to a point; thence S 80°09'13" W a distance of 138.01' to a point; thence S 54°51'56" W a distance of 523.31' to a point; thence N 83°48'10" W a distance of 374.97' to a point; thence S 89°20'38" W a distance of 632.24' to a point; thence N 81°36'14" W a distance of 267.30' to a point; thence S 73°37'12" W a distance of 120.84' to a point; thence S 10°29'33" W a distance of 1059.23' to a point; thence S 10°26'52" W a distance of 2270.42' to a point; thence S 10°38'39" W a distance of 435.51' to the high water line of the Atlantic Intracoastal Waterway; thence along the high water line of said waterway S 81°26'39" E approximately 9626' to a point where said high water line intersects the centerline of Beaver Dam Creek; thence up the run of said creek the following courses and distances; thence N 10°39'50" E a distance of 664.72' to a point; thence N 18°40'49" E a distance of 1432.05' to a point; thence N 22°15'28" E a distance of 2039.03' to a point; thence N 43°48'33" E a distance of 948.32' to a point; thence N 42°52'26" E a distance of 1522.17' to a point; thence N 68°08'26" E a distance of 1452.60' to a point; thence leaving Beaver Dam Creek

runs S 23^10'45" E a distance of 88.75' to a point; thence S 78^14'49" E a distance of 797.09' to a point; thence N 59^31'41" E a distance of 662.46' to a point; thence S 00^15'02" E a distance of 1047.01' to a point; thence N 89^03'59" E a distance of 210.00' to a point; thence N 88^56'40" E a distance of 873.45' to a point; thence N 89^04'29" E a distance of 867.18' to a point; thence N 00^18'37" W a distance of 1803.88' to a point in the run of Potter's Branch; thence up the run of Potter's Branch the following courses and distances; N 50^49'02" E a distance of 190.05' to a point; thence N 56^42'21" E a distance of 188.26' to a point; thence N 84^44'46" E a distance of 208.46' to a point; thence N 86^28'01" E a distance of 187.48' to a point; thence N 88^55'48" E a distance of 380.47' to a point; thence N 85^06'54" E a distance of 251.03' to a point; thence S 86^26'56" E a distance of 183.19' to a point; thence N 70^06'46" E a distance of 137.97' to a point; thence S 89^02'13" E a distance of 382.85' to a point; thence leaving the run of Potter's Branch runs N 16^54'14" E a distance of 806.35' to a point; thence N 73^02'44" W a distance of 700.00' to a point; thence N 17^09'58" E a distance of 491.73' to a point; thence N 62^34'11" W a distance of 2005.89' to a point; thence S 71^20'44" W a distance of 114.00' to a point; thence S 08^08'11" E a distance of 120.00' to a point; thence S 43^22'41" W a distance of 760.00' to a point; thence S 80^45'54" W a distance of 330.00' to a point; thence S 38^31'29" W a distance of 210.00' to a point; thence N 85^44'21" W a distance of 461.62' to a point; thence S 15^16'24" W a distance of 320.00' to a point; thence N 83^33'24" W a distance of 140.00' to a point; thence S 44^52'03" W a distance of 260.00' to a point; thence S 15^24'13" W a distance of 80.83' to a point; thence S 80^18'26" W a distance of 229.77' to a point; thence N 37^25'39" W a distance of 464.86' to a point in the centerline of Beaver Dam Creek; thence up the run of said creek the following courses and distances; N 38^32'50" W a distance of 42.26' to a point; thence N 07^42'45" E a distance of 26.22' to a point; thence N 19^15'32" E a distance of 972.45' to a point; thence N 19^35'28" E a distance of 120.47' to a point; thence N 25^52'47" E a distance of 1255.95' to a point; thence N 21^13'23" E a distance of 409.89' to a point; thence N 19^25'25" E a distance of 518.51' to a point; thence N 34^12'30" E a distance of 59.41' to a point; thence N 22^57'53" E a distance of 137.07' to a point; thence N 75^17'57" E a distance of 53.72' to a point; thence N 10^34'41" E a distance of 9.60' to a point; thence leaving Beaver Dam Creek runs N 72^56'48" W a distance of 899.70' to a point in the eastern right-of-way of St. James Drive (60' right-of-way); thence with the eastern right-of-way of St. James Drive N 05^48'21" W a distance of 302.71' to a point; thence with a curve turning to the left with an arc length of 223.31', with a radius of 550.00', with a chord bearing of N 17^26'15" W, with a chord length of 221.78' to a point, thence N 29^04'08" W a distance of 66.08' to a point; thence with a curve turning to the right with an arc length of 193.24', with a radius of 450.00', with a chord bearing of N 16^46'00" W, with a chord length of 191.76' to a point, thence

N 04^27'52" W a distance of 148.27' to a point; thence with a curve turning to the right with an arc length of 552.76', with a radius of 1580.00', with a chord bearing of N 05^33'29" E, with a chord length of 549.95' to a point, thence N 15^34'50" E a distance of 800.35', to the place and point of beginning. Containing 2,343.1 acres more or less.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Town Governing Body; Temporary Officers.** The Town Council shall be the governing body of the Town of St. James. Until such time as a Town election is held in accordance with the provisions of this Charter, the governing body of the Town shall be: Earl Dye, who shall also serve as the Mayor, Dennis Becker, Harry Comer, Joan Madsen, and Henry Ulrichs.

"Section 3.2. **Town Council; Composition; Terms of Office; Vacancies.** The Town Council shall be composed of five members who shall be elected by all the qualified voters of the Town. Council members shall be elected at large and shall serve two-year terms. If a member cannot fully serve his or her term, the remaining Council members shall appoint a person to fill the vacancy and that person shall serve until the next biennial election.

"Section 3.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by the Council from among its membership at the first organizational meeting after the biennial election and the Mayor shall serve a two-year term. The Mayor shall be the official head of the Town government and shall preside at meetings of the Council and shall have the right to vote on all matters before the Council.

"Section 3.4. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 3.5. **Quorum; Voting Requirements.** Official actions of the Council and all votes shall be taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 3.6. **Qualifications for Office; Compensation.** The qualifications of Mayor and Council members shall be in accordance with general law. The Mayor and Council members shall be reimbursed for ordinary and necessary expenses and may receive salaries and honoraria only upon a majority vote of all qualified voters of the Town in a special referendum with respect thereto.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Regular Municipal Elections.** Regular municipal elections shall be held every two years in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 4.2. **Election of Council Members.** Council members appointed upon ratification of this Charter shall serve until their successors are elected and qualified. Council members shall first be elected at a regular municipal election to be held in 1999. Thereafter, elections shall be held biennially.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly or as provided for in this Charter.

"CHAPTER V.

"ORGANIZATION AND ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Council-Manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Manager; Appointment; Powers and Duties.** The Council may appoint a Town Manager who shall be responsible for all operating departments of the Town government, except as otherwise directed by the Council. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and shall have additional powers and duties conferred by the Council insofar as they are authorized by general law.

"Section 5.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief administrative officer, the Town Manager shall have the power to appoint, suspend, and remove all officers, department heads, and employees in the administrative service of the Town, with the exception of the Town Attorney, the Town Clerk, and any other official whose appointment or removal is vested in the Council by this Charter or by general law. Neither the Council nor any of its members shall take part in the appointment or removal of officers or employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry or for consultation with the Town Attorney, the Council and its members shall address issues related to administrative service only through contact with the Town Manager or Acting Manager, and neither the Council nor any of its members shall give any specific orders to any subordinates of the Town Manager or Acting Manager either publicly or privately.

"Section 5.4. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct.

"Section 5.5. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties as are required by law or as the Council may direct.

"Section 5.6. **Other Administrative Officers and Employees.** The Council may authorize other offices and positions, appoint persons to fill such offices and positions, or authorize such offices and positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.7. **Consolidation of Functions.** The Council may consolidate any two or more positions subject to the provisions of the laws and regulations of this State.

"CHAPTER VI.

"TAXATION.

"Section 6.1. **Powers of the Council.** The Council may levy taxes and fees as authorized by law. The ad valorem tax rate may be changed from the rate of the prior year only when a majority of the entire legally constituted Council votes in favor of such a change.

"Section 6.2. **Commencement of Collection of Taxes.** From and after the effective date of this act, the citizens and property of the Town of St. James shall be subject to municipal taxes levied for the year beginning July 1, 1999, and for that purpose the Town shall obtain from Brunswick County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1999-2000 ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance, and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 1999. If this act is ratified before July 1, 1999, the Town may adopt a budget ordinance for fiscal year 1998-1999 without following the timetable in the Local Government and Budget Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical, but no ad valorem taxes may be levied for the 1998-1999 fiscal year.

"CHAPTER VII.

"ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town is authorized to adopt such ordinances as the Council deems necessary for the governance of the Town, in accordance with and subject to the provisions of general law.

"Section 7.2. **Planning and Regulation of Development.** Notwithstanding any other provisions of this Charter or the provisions of general law, including the provisions of Article 19 of Chapter 160A of the General Statutes, the Town shall not, prior to December 31, 2009, adopt any ordinance creating a planning agency, regulating or restricting the subdivision, zoning, or use of any land, or providing for building inspections. During such time, all planning duties, regulation of development, and building inspections within the jurisdiction of the Town shall be conducted by Brunswick County and

governed by the applicable ordinances of Brunswick County as if the area was not in the corporate limits of any municipality. As of December 31, 2009, either the Town or Brunswick County may terminate such powers of Brunswick County within the jurisdiction of the Town upon 60 days' notice whereupon the Town may adopt subdivision and zoning ordinances and shall become responsible for building inspections in accordance with general law.

"CHAPTER VIII.

"MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** No person or immediate family member of such person who is employed by or an official of the Town shall do business with the Town unless the Council specifically approves such activity. All appointed officials shall apprise the Council of any and all conflicts of interest, and failure to do so shall constitute grounds for immediate dismissal for cause. No official may accept any gratuity from any business, person, or other official if such gratuity is related to his or her official duties.

"Section 8.2. **Enlargement of Council.** The Council may vote to enlarge its numbers in accordance with the provisions of Part 4 of Article 5 of Chapter 160A of the General Statutes. The electorate may seek to enlarge the number of members on the Council by submitting to the Council a petition to the effect signed by twenty percent (20%) of the registered voters of the Town. Upon passage of a resolution or receipt of a valid petition, the Council shall take those steps provided in Part 4 of Article 5 of Chapter 160A of the General Statutes to determine by referendum whether the number of Council members should be increased. The referendum shall be held at the earliest possible date to elect the new Council members.

"Section 8.3. **Changes to Charter.** The Council may propose and enact changes to the Charter in accordance with Part 4 of Article 5 of Chapter 160A of the General Statutes. However, no change to the Charter shall become final until the residents of the Town have been notified of the proposed change and afforded an opportunity to comment thereon. Notwithstanding the provisions of G.S. 160A-103, residents may file a petition requesting a change to the Charter, but the Council need not consider the proposed change unless it is determined that twenty percent (20%) of the qualified voters of the Town have signed the petition.

"Section 8.4. **Provision of Services and Administration of Functions.** The Council may enter into agreements with other governmental bodies and private enterprises for the provision of services and the administration of corporate functions in order to provide such services and administer such functions in the most efficient and cost-effective manner possible."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law on the date it was ratified.

H.B. 900 **SESSION LAW 1999-242**

AN ACT ALLOWING GATES COUNTY TO IMPOSE FEES FOR FIRE PROTECTION SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Article 11 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"*§ 153A-236.1. County fire protection fees.*

(a) The board of county commissioners of a county may by ordinance impose a fee on owners of real property, and on owners of manufactured or mobile homes, that benefit from the availability and use of fire protection services within the county. The county shall establish a schedule of fees for different classes of property. The fee established for each class of property shall be proportional to: (i) the estimated cost of providing fire protection services to that class of property and (ii) the relative benefit of the availability and use of fire protection services given differences in the market value of each class of property. The schedule of fees shall include the following classes of property and the fee on each class of property shall not exceed the following maximums:

(1) A single-family dwelling having a fair market value under fifty thousand dollars ($50,000); and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed forty dollars ($40.00) per site per year.

(2) A single-family dwelling having a fair market value equal to or greater than fifty thousand dollars ($50,000); and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed fifty dollars ($50.00) per site per year.

(3) A multiple-family dwelling. The fee on this class of property may not exceed sixty dollars ($60.00) per building per year.

(4) A commercial facility. The fee on this class of property may not exceed seventy-five dollars ($75.00) per site per year.

(b) A county may adopt an ordinance providing that any fee imposed under subsection (a) of this section may be billed with property taxes, may be payable in the same manner as property taxes, and, in the case of nonpayment, may be collected in any manner by which delinquent personal or real property taxes can be collected. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee."

Section 2. This act applies to Gates County only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law on the date it was ratified.

S.B. 57 **SESSION LAW 1999-243**

AN ACT PROVIDING FOR LOSS OF DRIVERS LICENSE PRIVILEGES BY CERTAIN PERSONS UNDER THE AGE OF EIGHTEEN FOR COMMITTING DESIGNATED ACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11(n) reads as rewritten:

"(n) Driving Eligibility Certificate. -- A person who desires to obtain a permit or license issued under this section ~~and who does not~~ must have a high school diploma or its equivalent or must have a driving eligibility certificate. A driving eligibility certificate must meet the following conditions:

(1) The person who is required to sign the certificate under subdivision (4) of this subsection must show that he or she has determined that one of the following requirements is met:

a. The person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.

b. A substantial hardship would be placed on the person or the person's family if the person does not receive a certificate.

c. The person cannot make progress toward obtaining a high school diploma or its equivalent.

(1a) The person who is required to sign the certificate under subdivision (4) of this subsection also must show that one of the following requirements is met:

a. The person who seeks a permit or license issued under this section is not subject to subsection (n1) of this section.

b. The person who seeks a permit or license issued under this section is subject to subsection (n1) of this section and is eligible for the certificate under that subsection.

(2) It must be on a form approved by the Division.

(3) It must be dated within 30 days of the date the person applies for a permit or license issuable under this section.

(4) It must be signed by the applicable person named below:

a. The principal, or the principal's designee, of the public school in which the person is enrolled.

b. The administrator, or the administrator's designee, of the nonpublic school in which the person is enrolled.

c. The person who provides the academic instruction in the home school in which the person is enrolled.

c1. The person who provides the academic instruction in the home in accordance with an educational program found by a court, prior to July 1, 1998, to comply with the compulsory attendance law.

d. The designee of the board of directors of the charter school in which the person is enrolled.

e. The president, or the president's designee, of the community college in which the person is enrolled.

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with ~~G.S. 115C-12(27),~~ G.S. 115C-12(28), ~~G.S.~~ 115D-5(a3), or ~~G.S.~~ 115C-566, whichever is applicable, and may not be appealed under this Chapter."

Section 2. G.S. 20-11 is amended by adding the following new subsection to read:

"(n1) Lose Control; Lose License.

(1) The following definitions apply in this subsection:

a. Applicable State entity. -- The State Board of Education for public schools and charter schools, the State Board of Community Colleges for community colleges, or the Secretary of Administration for nonpublic schools and home schools.

b. Certificate. -- A driving eligibility certificate that meets the conditions of subsection (n) of this section.

c. Disciplinary action. -- An expulsion, a suspension for more than 10 consecutive days, or an assignment to an alternative educational setting for more than 10 consecutive days.

d. Enumerated student conduct. -- One of the following behaviors that results in disciplinary action:

1. The possession or sale of an alcoholic beverage or an illegal controlled substance on school property.

2. The possession or use on school property of a weapon or firearm that resulted in disciplinary action under G.S. 115C-391(d1) or that could have resulted in that disciplinary action if the conduct had occurred in a public school.

3. The physical assault on a teacher or other school personnel on school property.

e. School. -- A public school, charter school, community college, nonpublic school, or home school.

f. School administrator. -- The person who is required to sign certificates under subdivision (4) of subsection (n) of this section.

g. School property. -- The physical premises of the school, school buses or other vehicles under the school's control or contract and that are used to transport students, and school-sponsored or school-related activities that occur on or off the physical premises of the school.

h. Student. -- A person who desires to obtain a permit or license issued under this section.

(2) Any student who was subject to disciplinary action for enumerated student conduct that occurred either after the first day of July before the school year in which the student enrolled in the eighth grade or after the student's fourteenth birthday, whichever event occurred first, is subject to this subsection.

(3) A student who is subject to this subsection is eligible for a certificate when the school administrator determines that the student has exhausted all administrative appeals connected to the disciplinary action and that one of the following conditions is met:

a. The enumerated student conduct occurred before the student reached the age of 15, and the student is now at least 16 years old.

b. The enumerated student conduct occurred after the student reached the age of 15, and it is at least one year after the date the student exhausted all administrative appeals connected to the disciplinary action.

c. The student needs the certificate in order to drive to and from school, a drug or alcohol treatment counseling program, as appropriate, or a mental health treatment program, and no other transportation is available.

(4) A student whose permit or license is denied or revoked due to ineligibility for a certificate under this subsection may otherwise be eligible for a certificate if, after six months from the date of the ineligibility, the school administrator determines that one of the following conditions is met:

a. The student has returned to school or has been placed in an alternative educational setting, and has displayed exemplary student behavior, as defined by the applicable State entity.

b. The disciplinary action was for the possession or sale of an alcoholic beverage or an illegal controlled substance on school property, and the student subsequently attended and successfully completed, as defined by the applicable State entity, a drug or alcohol treatment counseling program, as appropriate."

Section 3. G.S. 20-13.2(c1) reads as rewritten:

"(c1) ~~The Division must revoke the permit or license of a person under the age of 18 if the proper school authority notifies the Division that the person no longer meets the requirements for a driving eligibility certificate under G.S. 20-11(n). Notwithstanding subsection (d) of this section, the length of revocations must last until the person's eighteenth birthday or until the division restores the permit or license under this subsection.~~

~~The~~ Upon receipt of notification from the proper school authority that a person no longer meets the requirements for a driving eligibility certificate under G.S. 20-11(n), the Division must expeditiously notify the person that his or her permit or license is revoked effective on the

tenth calendar day after the mailing of the revocation notice. The Division must revoke the permit or license of that person on the tenth calendar day after the mailing of the revocation notice. Notwithstanding subsection (d) of this section, the length of revocation must last for the following periods:

(1) If the revocation is because of ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), then the revocation shall last until the person's eighteenth birthday.

(2) If the revocation is because of ineligibility for a driving eligibility certificate under G.S. 20-11(n1), then the revocation shall be for a period of one year.

For a person whose permit or license was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), the Division must restore a person's permit or license before the person's eighteenth birthday, if the person submits to the Division one of the following:

(1) A high school diploma or its equivalent.

(2) A driving eligibility certificate as required under G.S. 20-11(n).

For a person whose permit or license was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n1), the Division shall restore a person's permit or license before the end of the revocation period, if the person submits to the Division a driving eligibility certificate as required under G.S. 20-11(n).

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with ~~G.S. 115C-12(27),~~ G.S. 115C-12(28), ~~G.S.~~ 115D-5(a3), or ~~G.S.~~ 115C-566, whichever is applicable, and may not be appealed under this Chapter."

Section 4. G.S. 20-9 is amended by adding the following new subsection to read:

"(b1) The Division shall not issue a drivers license to any person whose permit or license has been suspended or revoked under G.S. 20-13.2(c1) during the suspension or revocation period, unless the Division has restored the person's permit or license under G.S. 20-13.2(c1)."

Section 5. G.S. 115C-12(28) reads as rewritten:

"(28) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. -- The State Board of Education shall ~~issue rules defining~~ adopt the following rules to assist schools in their administration of procedures necessary to implement G.S. 20-11 and G.S. 20-13.2:

a. To define what is equivalent to a high school diploma for the purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall apply to all educational programs offered in the State by public schools, charter schools, nonpublic schools, or community colleges.

b. To establish ~~The State Board also shall issue rules for~~ the procedures a person who is or was enrolled in a public ~~school, in a~~ school or in a charter ~~school, or in a nonpublic school accredited by the Board~~ school must follow and the requirements that person ~~must~~ shall meet to obtain a driving eligibility certificate.

c. To require the ~~The~~ person who is required under G.S. 20-11(n) to sign the driving eligibility certificate ~~must~~ to provide the certificate if he or she determines that one of the following requirements is met:

~~a. The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.~~

~~b. A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.~~

~~c. The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.~~

1. The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).

2. The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).

These rules shall apply to public schools and charter schools.

d. To provide for an appeal to an appropriate education authority by a person who is denied a driving eligibility certificate. These rules shall apply to public schools and charter schools.

e. To define exemplary student behavior and to define what constitutes the successful completion of a drug or alcohol treatment counseling program. These rules shall apply to public schools and charter schools.

The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a public ~~school, in a charter school, or in a nonpublic school accredited by the Board~~ school or in a charter school no longer meets the requirements for a driving eligibility certificate.

The State Board shall develop a form for parents, guardians, or emancipated juveniles, as appropriate, to provide their written, irrevocable consent for a school to disclose to the Division of Motor Vehicles that the student no longer meets the conditions for a driving eligibility certificate under G.S. 20-11(n)(1) or G.S. 20-11(n1), if

applicable, in the event that this disclosure is necessary to comply with G.S. 20-11 or G.S. 20-13.2. Other than identifying under which statutory subsection the student is no longer eligible, no other details or information concerning the student's school record shall be released pursuant to this consent. This form shall be used for students enrolled in public schools or charter schools."

Section 6. G.S. 115C-566 reads as rewritten:

"§ *115C-566. Driving eligibility certificates; requirements.*

(a) The Secretary of Administration, upon consideration of the advice of the Division of Nonpublic Education in the Office of the Governor and representatives of nonpublic schools, shall ~~issue~~ adopt rules for the procedures a person who is or was enrolled in a home school, in a nonpublic school that is not accredited by the State Board of Education, or in an educational program found by a court, prior to July 1, 1998, to comply with the compulsory attendance law, must follow and the requirements that person must meet to obtain a driving eligibility certificate. ~~The person~~ The procedures shall provide that the person who is required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

(1) The person seeking the certificate is ~~currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.~~

~~(2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.~~

~~(3) The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.~~ eligible for the certificate under G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).

(2) The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).

The rules shall define exemplary student behavior, define what constitutes the successful completion of a drug or alcohol treatment counseling program, and provide for an appeal to an appropriate educational entity by a person who is denied a driving eligibility certificate. The Division of Nonpublic Education also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education no longer meets the requirements for a driving eligibility certificate.

(b) The Secretary of Administration shall develop a form for parents, guardians, or emancipated juveniles, as appropriate, to provide their written, irrevocable consent for a school to disclose to the Division of Motor Vehicles that the student no longer meets the

conditions for a driving eligibility certificate under G.S. 20-11(n)(1) or G.S. 20-11(n1), if applicable, in the event that this disclosure is necessary to comply with G.S. 20-11 or G.S. 20-13.2. Other than identifying under which statutory subsection the student is no longer eligible, no other details or information concerning the student's school record shall be released pursuant to this consent. This form shall be used for students enrolled in home schools or nonpublic schools.

(c) In accordance with rules adopted by the Secretary under this section, persons who are required to sign driving eligibility certificates that meet the conditions established in G.S. 20-11 shall obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles and shall notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets the conditions under G.S. 20-11(n)(1) or G.S. 20-11(n1)."

Section 7. G.S. 115C-288 is amended by adding the following new subsection to read:

"(k) To Sign Driving Eligibility Certificates and to Notify the Division of Motor Vehicles. -- In accordance with rules adopted by the State Board of Education, the principal or the principal's designee shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions."

Section 8. G.S. 115C-238.29F is amended by adding the following new subsection to read:

"(j) Driving Eligibility Certificates. -- In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions."

Section 9. G.S. 115D-5(a3) reads as rewritten:

"(a3) The State Board of Community Colleges shall ~~issue~~ adopt the following rules ~~for~~ to assist community colleges in their

administration of procedures necessary to implement G.S. 20-11 and G.S. 20-13.2:

(1) To establish the procedures a person who is or was enrolled in a community college must follow and the requirements that person must meet to obtain a driving eligibility certificate. ~~The~~

(2) To require the person who is required under G.S. 20-11(n) to sign the driving eligibility certificate ~~must~~ to provide the certificate if he or she determines that one of the following requirements is met:

~~(1) The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.~~

~~(2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.~~

~~(3) The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.~~

a. The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).

b. The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).

(3) ~~The rules shall~~ To provide for an appeal through the grievance procedures established by the board of trustees of each community college by a person who is denied a driving eligibility certificate.

(4) To define exemplary student behavior and to define what constitutes the successful completion of a drug or alcohol treatment counseling program.

The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a community college no longer meets the requirements for a driving eligibility certificate. The State Board also shall adopt guidelines to assist the presidents of community colleges in their designation of representatives to sign driving eligibility certificates.

The State Board shall develop a form for the appropriate individuals to provide their written, irrevocable consent for a community college to disclose to the Division of Motor Vehicles that the student no longer meets the conditions for a driving eligibility certificate under G.S. 20-11(n)(1) or G.S. 20-11(n1), if applicable, in the event that this disclosure is necessary to comply with G.S. 20-11 or G.S. 20-13.2. Other than identifying under which statutory subsection the student is no longer eligible, no other details or information concerning the student's school record shall be released pursuant to this consent." **Section 10.** The

State Board of Education shall initiate and coordinate meetings with the Division of Nonpublic Education in the Office of the Governor, with representatives of nonpublic schools, and with the State Board of Community Colleges in order to develop coordinated rules, policies, and guidelines needed to implement this act.

Section 11. Sections 5, 6, 9, and 10 of this act are effective when they become law. The remainder of this act becomes effective July 1, 2000. This act does not apply to any person who held a valid North Carolina limited learner's permit issued before December 1, 1997, who held a valid North Carolina learner's permit issued before December 1, 1997, or who was a provisional licensee and held a valid North Carolina drivers license issued before December 1, 1997. This act shall apply only to conduct committed on or after July 1, 2000, by a person who is expelled, suspended, or placed in an alternative educational setting as a result of that conduct.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law upon approval of the Governor at 2:30 p.m. on the 1st day of July, 1999.

S.B. 766 **SESSION LAW 1999-244**

AN ACT TO MAKE CERTAIN PROVISIONS IN THE INSURANCE LAW APPLICABLE TO HOSPITAL, MEDICAL, AND DENTAL SERVICE CORPORATIONS AND TO HEALTH MAINTENANCE ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 65 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-65-2. Other laws applicable to service corporations.*

The following provisions of this Chapter are applicable to service corporations that are subject to this Article:

G.S. 58-2-125.	Authority over all insurance companies; no exemptions from license.
G.S. 58-2-155.	Investigation of charges.
G.S. 58-2-160.	Reporting and investigation of insurance and reinsurance fraud and the financial condition of licensees; immunity from liability.
G.S. 58-2-162.	Embezzlement by insurance agents, brokers, or administrators.
G.S. 58-2-185.	Record of business kept by companies and agents; Commissioner may inspect.
G.S. 58-2-190.	Commissioner may require special reports.
G.S. 58-2-195.	Commissioner may require records, reports, etc., for agencies, agents, and others.
G.S. 58-2-200.	Books and papers required to be exhibited.
G.S. 58-3-50.	Companies must do business in own name; emblems, insignias, etc.

G.S. 58-3-115. Twisting with respect to insurance policies; penalties.
G.S. 58-50-35. Notice of nonpayment of premium required before forfeiture.
G.S. 58-51-25. Policy coverage to continue as to mentally retarded or physically handicapped children."

Section 2. Article 67 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-67-171. Other laws applicable to HMOs.*

The following provisions of this Chapter are applicable to HMOs that are subject to this Article:

G.S. 58-2-125. Authority over all insurance companies; no exemptions from license.
G.S. 58-2-155. Investigation of charges.
G.S. 58-2-160. Reporting and investigation of insurance and reinsurance fraud and the financial condition of licensees; immunity from liability.
G.S. 58-2-162. Embezzlement by insurance agents, brokers, or administrators.
G.S. 58-2-185. Record of business kept by companies and agents; Commissioner may inspect.
G.S. 58-2-190. Commissioner may require special reports.
G.S. 58-2-195. Commissioner may require records, reports, etc., for agencies, agents, and others.
G.S. 58-2-200. Books and papers required to be exhibited.
G.S. 58-3-50. Companies must do business in own name; emblems, insignias, etc.
G.S. 58-3-115. Twisting with respect to insurance policies; penalties.
G.S. 58-50-35. Notice of nonpayment of premium required before forfeiture.
G.S. 58-51-25. Policy coverage to continue as to mentally retarded or physically handicapped children.
G.S. 58-51-35. Insurers and others to afford coverage to mentally retarded and physically handicapped children.
G.S. 58-51-45. Policies to be issued to any person possessing the sickle-cell trait or hemoglobin C trait."

Section 3. G.S. 58-65-125 reads as rewritten:

"*§ 58-65-125. ~~Revocation of certificate of authority; dissolution.~~ Revocation, suspension, and refusal to renew license; unfair trade practices.*

~~Whenever the Commissioner of Insurance shall find as a fact that any corporation subject to the provisions of this Article and Article 66 of this Chapter is being operated for profit or fraudulently conducted, or is not complying with the provisions of this Article and Article 66 of this Chapter, he shall be authorized to revoke the certificate of authority or license theretofore granted after notice and hearing, and may at any time thereafter institute or cause to be instituted the necessary proceedings under the laws of this State looking to the~~

~~dissolution of such corporation, and any dissolution, liquidation, merger, or reorganization of a corporation or corporations subject to the provisions of this Article and Article 66 of this Chapter shall be under the supervision of the Commissioner of Insurance who shall have all powers with respect thereto granted to him under the insurance laws of this State. If, at any time, a corporation organized under the provisions of this Article and Article 66 of this Chapter is financially unable to comply with the provisions of this Article and Article 66 of this Chapter or to comply with any of the provisions of any of the hospital contracts or subscribers' contracts issued by said corporation in pursuance of this Article and Article 66 of this Chapter, the Commissioner of Insurance shall have the right without court action, to transfer all its assets, liabilities, and obligations, to any other corporation, whether organized under the provisions of this Article and Article 66 of this Chapter, or not, under such contract of reinsurance with such transferee corporation, that he deems to the best interests of the corporation, its members and creditors whose assets, obligations and liabilities, are transferred. This action on the part of the Commissioner of Insurance is without prejudice to the rights of the corporations whose assets, liabilities and obligations are so transferred, to institute other and proper legal remedies, and to question the action so taken by the Commissioner of Insurance as herein provided, provided, however, that the action taken by the Commissioner of Insurance herein shall not be affected pending a final determination by the court with reference thereto.~~

(a) The Commissioner may revoke, suspend, or refuse to renew the license of any service corporation if:

(1) The service corporation fails or refuses to comply with any law, order, or rule applicable to the service corporation.

(2) The service corporation's financial condition is unsound.

(3) The service corporation has published or made to the Department or to the public any false statement or report.

(4) The service corporation refuses to submit to any examination authorized by law.

(5) The service corporation is found to make a practice of unduly engaging in litigation or of delaying the investigation of claims or the adjustment or payment of valid claims.

(b) Any suspension, revocation, or refusal to renew a service corporation's license under this section may also be made applicable to the license or registration of any natural person regulated under this Chapter who is a party to any of the causes for licensing sanctions listed in subsection (a) of this section.

(c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if a service corporation fails to acknowledge a claim within 30 days after receiving written notice of the claim, but only if the notice contains sufficient information for the service corporation to identify the specific coverage involved. Acknowledgement of the claim shall be made to the claimant or the claimant's legal representative and shall do one of the following, as applicable:

(1) Advise that the claim is being investigated.
(2) Be a payment of the claim.
(3) Be a bona fide written offer of settlement.
(4) Be a written denial of the claim.

(d) Article 63 of this Chapter applies to service corporations and their agents and representatives."

Section 4. G.S. 58-13-10 reads as rewritten:

"*§ 58-13-10. Scope.*

This Article applies to all domestic insurers and to all kinds of insurance written by those insurers under Articles 1 through ~~66~~ 68 of this Chapter. Foreign insurers ~~are to~~ shall comply in substance with the requirements and limitations of this ~~section.~~ Article. This Article does not apply to variable contracts for which separate accounts are required to be maintained nor to statutory deposits that are required to be maintained by insurance regulatory agencies as a requirement for doing business in such jurisdictions."

Section 5. G.S. 58-65-105 reads as rewritten:

"*§ 58-65-105. Visitations and examinations.*

~~The Commissioner of Insurance or any deputy or examiner or other person whom he may appoint shall have the power of visitations and examination into the affairs of any such corporation and free access to all the books, papers and documents that relate to the business of the corporation, and may summon and qualify witnesses under oath to examine its officers, agents, or employees or other persons in relation to the affairs, transactions and conditions of the corporation.~~ Service corporations subject to this Article shall be examined under G.S. 58-2-131, 58-2-132, 58-2-133, and 58-2-134."

Section 6. G.S. 58-65-95 reads as rewritten:

"*§ 58-65-95. Investments and reserves.*

(a) No corporation subject to this Article shall invest in any securities other than securities permitted ~~by the laws of this State~~ by Article 7 of this Chapter for the investment of assets of ~~life insurance companies, banks, trust companies, executors, administrators and guardians.~~ life and health insurance companies.

(b) Every such corporation ~~after the first full year of doing business after the passage of this Article and Article 66 of this Chapter~~ shall accumulate and maintain, in addition to proper reserves for current administrative liabilities and whatever reserves are deemed to be adequate and proper by the Commissioner ~~of Insurance~~ for unpaid ~~hospital and/or medical and/or~~ hospital, medical, or dental bills, and unearned membership dues, a special contingent surplus or reserve at the following rates annually of its gross annual collections from membership dues, exclusive of receipts from cost plus plans, until ~~said~~ the reserve ~~shall equal~~ equals an amount that is three times its average monthly expenditures for ~~hospital and/or medical and/or dental~~ claims and administrative and selling expenses:

(1) First $200,000	4%
(2) Next $200,000	2%
(3) All above $400,000	1%

(c) Any such corporation may accumulate and maintain a contingent reserve in excess of the ~~reserve hereinabove provided for,~~ reserve required in subsection (b) of this section, not to exceed an amount equal to six times the average monthly expenditures for ~~hospital and/or medical and/or dental~~ claims and administrative and selling expenses.

~~In the event~~ (d) If the Commissioner ~~of Insurance~~ finds that special conditions exist warranting an increase or decrease in the reserves or schedule of ~~reserves, hereinabove provided for, it may be modified by~~ reserves in subsection (b) of this section, the Commissioner ~~of Insurance accordingly,~~ may modify them accordingly. ~~provided~~ Provided, however, when special conditions exist warranting an increase in ~~said~~ the schedule of reserves, ~~said~~ the schedule shall not be increased by the Commissioner ~~of Insurance~~ until a reasonable length of time ~~shall have~~ has elapsed after the Commissioner gives notice of ~~such~~ the increase."

Section 7. G.S. 58-65-115 reads as rewritten:

"*§ 58-65-115. Licensing and regulation of agents.*

Every agent of any ~~hospital~~ service corporation authorized to do business in this State under ~~the provisions of~~ this Article ~~and Article 66 of this Chapter shall be~~ is subject to the licensing provisions of Article 33 of this ~~Chapter.~~ Chapter and all other provisions in this Chapter applicable to life and health insurance agents."

Section 8. G.S. 58-67-90 reads as rewritten:

"*§ 58-67-90. ~~Regulation~~ Licensing and regulation of agents.*

~~The licensing provisions of Article 33 of this Chapter shall apply to the licensing of Article 67 agents.~~ Every agent of any HMO authorized to do business in this State under this Article is subject to the licensing provisions of Article 33 of this Chapter and all other provisions in this Chapter applicable to life and health insurance agents."

Section 9. G.S. 58-28-35 reads as rewritten:

"*§ 58-28-35. Provisions of Article additional to existing ~~law.~~ law; application.*

The powers vested in the Commissioner by this Article are additional to any other powers to enforce any penalties, fines, or forfeitures authorized by law with respect to transacting the business of insurance without authority. This Article applies to all kinds of insurance, including service corporations that would be subject to Article 65 of this Chapter, HMOs that would be subject to Article 67 of this Chapter, MEWAs that would be subject to Article 49 of this Chapter, and self-insured workers' compensation operations that would be subject to Article 47 of this Chapter or Article 4 of Chapter 97 of the General Statutes."

Section 10. G.S. 58-50-1 reads as rewritten:

"*§ 58-50-1. Waiver by insurer.*

The acknowledgment by any insurer of the receipt of notice given under any policy covered by Articles 49, 50 through ~~55~~ 55, 65, or 67 of this Chapter, or the furnishing of forms for filing proofs of loss, or

the acceptance of such proofs, or the investigation of any claim ~~thereunder,~~ the policy, shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under ~~such~~ the policy."

Section 11. G.S. 58-65-100 reads as rewritten:

"*§ 58-65-100. ~~Reports~~ Statements filed with ~~Commissioner of Insurance.~~ Commissioner.*

~~Every such corporation shall annually on or before the first day of March of each year, file in the office of the Commissioner of Insurance a sworn statement verified by at least two of the principal officers of the said corporation showing its condition on the thirty-first day of December, then next preceding; which shall be in such form and shall contain such matter as the Commissioner of Insurance shall prescribe. In case any such corporation shall fail to file any such annual statement as herein required, the said Commissioner of Insurance shall be authorized and empowered to suspend the certificate of authority issued to such corporation until such statement shall be properly filed.~~ Every service corporation subject to this Article is subject to G.S. 58-2-165."

Section 12. G.S. 58-67-55 reads as rewritten:

"*§ 58-67-55. ~~Annual report.~~ Statements filed with Commissioner.*

~~Every such health maintenance organization shall annually on or before the first day of March of each year, file in the office of the Commissioner of Insurance a sworn statement verified by at least two of the principal officers of the health maintenance organization showing its condition on the thirty-first day of December, then next preceding; which shall be in such form as the Commissioner of Insurance shall prescribe. In case any such health maintenance organization shall fail to file any such annual statement as herein required, the said Commissioner of Insurance shall be authorized and empowered to suspend the certificate of authority issued to such health maintenance organization until such statement shall be properly filed.~~ Every HMO subject to this Article is subject to G.S. 58-2-165."

Section 13. G.S. 58-63-5 reads as rewritten:

"*§ 58-63-5. Definitions.*

When used in this Article:

(2) 'Person' ~~shall mean~~ means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of ~~insurance, including agents,~~ insurance under this Chapter; and includes agents, brokers, limited representatives, and adjusters."

Section 14. G.S. 58-67-65(b) reads as rewritten:

"(b) ~~The provisions of Article 63 of this Chapter shall be construed to apply to health maintenance organizations, health care plans and evidences of coverage except to the extent that the Commissioner determines that the nature of health maintenance organizations, health care plans and evidences of coverage render such sections clearly~~

~~inappropriate.~~ Article 63 of this Chapter applies to health maintenance organizations and their agents and representatives."

Section 15. This act becomes effective January 1, 2000.

In the General Assembly read three times and ratified this the 22nd day of June, 1999.

Became law upon approval of the Governor at 9:00 a.m. on the 2nd day of July, 1999.

S.B. 194 **SESSION LAW 1999-245**

AN ACT TO CREATE THE NURSE LICENSURE COMPACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 9G.

"Nurse Licensure Compact.

"§ 90-171.80. Entering into Compact.

The Nurse Licensure Compact is hereby enacted into law and entered into by this State with all other states legally joining therein, in the form substantially as set forth in this Article.

"§ 90-171.81. Findings and declaration of purpose.

(a) The General Assembly of North Carolina makes the following findings:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to states' nurse licensure laws.

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.

(4) New practice modalities and technology make compliance with individual states' nurse licensure laws difficult and complex.

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

(b) The purposes of this Compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety.

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions.

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction.

(5) Through the mutual recognition of party state licenses, grant all party states the authority to hold nurses accountable for meeting all state practice laws in the states in which their patients are located at the time care is rendered.

"*§ 90-171.82. Definitions.*

The following definitions apply in this Article:

(1) Adverse action. -- A home or remote state action.

(2) Alternative program. -- A voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

(3) Compact. -- This Article.

(4) Coordinated licensure information system. -- An integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

(5) Current significant investigative information. --

a. Investigative information that indicates a licensee has committed more than a minor infraction.

b. Investigative information that indicates a licensee represents an immediate threat to public health and safety.

(6) Home state. -- The party state that is the nurse's primary state of residence.

(7) Home state action. -- Any administrative, civil, equitable, or criminal action permitted by the home state's laws that is imposed on a nurse by the home state's licensing board or another authority. The term includes the revocation, suspension, or probation of a nurse's license or any other action that affects a nurse's authorization to practice.

(8) Licensee. -- A person licensed by the North Carolina Board of Nursing or the nurse licensing board of a party state.

(9) Licensing board. -- A party state's regulatory agency that is responsible for licensing nurses.

(10) Multistate licensure privilege. -- Current official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in that state.

(11) Nurse. -- A registered nurse or licensed practical or vocational nurse as those terms are defined by each party state's practice laws.

(12) Party state. -- Any state that has adopted this Compact.

(13) Remote state. -- A party state, other than the home state, where the patient is located at the time nursing care is provided. In the case of the practice of nursing not involving a patient, the term means the party state where the recipient of nursing practice is located.

(14) Remote state action. -- Any administrative, civil, equitable, or criminal action permitted by the laws of a remote state that are imposed on a nurse by the remote state's nurse licensing board or other authority, including actions against a nurse's multistate licensure privilege to practice in the remote state. The term also includes cease and desist and other injunctive or equitable orders issued by remote states or their nurse licensing boards.

(15) State. -- A state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(16) State practice laws. -- The laws and regulations of individual party states that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for disciplining nurses. The term does not include the initial qualifications for licensure or the requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

"*§ 90-171.83. General provisions and jurisdiction.*

(a) A license to practice registered nursing that is issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in each party state. A license to practice practical or vocational nursing that is issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical or vocational nurse in each party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

(b) Party states may, in accordance with each state's due process laws, revoke, suspend, or limit the multistate licensure privilege of any licensee to practice in their state and may take any other actions under their applicable state laws that are necessary to protect the health and safety of their citizens. If a party state takes an action authorized in this subsection, it shall promptly notify the administrator of the coordinated licensure information system. The administrator shall promptly notify the home state of any actions taken by remote states.

(c) Every licensee practicing in a party state shall comply with the state practice laws of the state in which the patient is located at the time care is rendered. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing in a party state shall subject a nurse to the jurisdiction of the nurse licensing board and the laws and the courts in that party state.

(d) The Compact does not affect additional requirements imposed by states for advanced-practice registered nursing. A multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice

registered nursing if a license to practice registered nursing is required by state law as a precondition for qualifying for advanced-practice registered nurse authorization.

(e) Persons not residing in a party state may continue to apply for nurse licensure in party states as provided for under the laws of each party state. The license granted to such persons shall not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

"*§ 90-171.84. Application for licensure in a party state.*

(a) Upon receiving an application for a license, the licensing board in a party state shall ascertain through the coordinated licensure information system whether the applicant holds or has ever held a license issued by any other state, whether there are any restrictions on the applicant's multistate licensure privilege, and whether any other adverse action by any state has been taken against the applicant's license.

(b) A licensee in a party state shall hold licensure in only one party state at a time. The license shall be issued by the home state.

(c) A licensee who intends to change his or her primary state of residence may apply for licensure in the new home state in advance of the change. However, a new license shall not be issued by a party state until after the licensee provides evidence of a change in his or her primary state of residence that is satisfactory to the new home state's licensing board.

(d) When a licensee changes his or her primary state of residence by moving between two party states and obtaining a license from the new home state, the license from the former home state is no longer valid.

(e) When a licensee changes his or her primary state of residence by moving from a nonparty state to a party state and obtaining a license from the new home state, the license issued by the nonparty state shall not be affected and shall remain in full force if the laws of the nonparty state so provide.

(f) When a licensee changes his or her primary state of residence by moving from a party state to a nonparty state, the license issued by the former home state converts to an individual state license that is valid only in the former home state. The license does not grant the multistate licensure privilege to practice in other party states.

"*§ 90-171.85. Adverse actions.*

(a) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for the actions, if known. The licensing board of a remote state shall also promptly report any current significant investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

(b) The licensing board of a party state may complete any pending investigation of a licensee who changes his or her primary state of

residence during the course of the investigation. It may also take appropriate action against a licensee and shall promptly report the conclusion of the investigation to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any action taken against a licensee.

(c) A remote state may take adverse action that affects the multistate licensure privilege to practice within that party state. However, only the home state may take adverse action that affects a license that was issued by the home state.

(d) For purposes of taking adverse action, the licensing board of the home state shall give to conduct reported by a remote state the same priority and effect that it would if the conduct had occurred within the home state. The board shall apply its own state laws to determine the appropriate action that should be taken against the licensee.

(e) The home state may take adverse action based upon the factual findings of the remote state if each state follows its own procedures for imposing the adverse action.

(f) This Compact does not prohibit a party state from allowing a licensee to participate in an alternative program instead of taking adverse action against the licensee. If required by the party state's laws, the licensee's participation in an alternative program shall be confidential information. Party states shall require licensees who enter alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

"§ 90-171.86. Current significant investigative information.

(a) If a licensing board finds current significant investigative information as defined in G.S. 90-171.82(5)a., the licensing board shall, after giving the licensee notice and an opportunity to respond if required by state law, conduct a hearing and decide what adverse action, if any, should be taken against the licensee.

(b) If a licensing board finds current significant investigative information as defined in G.S. 90-171.82(5)b., the licensing board may take adverse action against the licensee without first providing the licensee notice or an opportunity to respond to the information. A hearing shall be promptly commenced and determined.

"§ 90-171.87. Additional authority of party state nursing licensing boards.

Notwithstanding any other powers, party state nurse licensing boards may do any of the following:

(1) If otherwise permitted by state law, recover from licensees the costs of investigating and disposing of cases that result in adverse action.

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and

testimony of witnesses or the production of evidence from another party state shall be enforced in the other party state by any court of competent jurisdiction according to the practice and procedure of that court. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the laws of the party state where the witnesses or evidence are located.

(3) Issue cease and desist orders to limit or revoke a licensee's authority to practice in the board's state.

(4) Adopt uniform rules and regulations that are developed by the Compact administrators as provided in G.S. 90-171.89(c).

"*§ 90-171.88. Coordinated licensure information system.*

(a) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical or vocational nurses. This system shall include information on the licensure and disciplinary history of each licensee, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report to the coordinated licensure information system any adverse action taken against licensees, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, and any denials of applications for licensure and the reasons for the denials.

(c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(d) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that shall not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing party state.

(e) Any personally identifiable information obtained by a party state licensing board from the coordinated licensure information system shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing the information shall be expunged from the coordinated licensure information system.

(g) The Compact administrators, acting jointly and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this Compact.

"*§ 90-171.89. Compact administration and interchange of information.*

(a) The executive director of the nurse licensing board of each party state or the executive director's designee shall be the administrator of this Compact for that state.

(b) To facilitate the administration of this Compact, the Compact administrator of each party state shall furnish to the Compact administrators of all other party states information and documents concerning each licensee, including a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation.

(c) Compact administrators shall develop uniform rules and regulations to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states as authorized in G.S. 90-171.87(4).

"*§ 90-171.90. Immunity.*

A party state or the officers, employees, or agents of a party state's nurse licensing board who act in accordance with this Compact shall not be liable for any good faith act or omission committed while they were engaged in the performance of their duties under this Compact.

"*§ 90-171.91. Effective date, withdrawal, and amendment.*

(a) This Compact shall become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the Compact, but the withdrawal shall not take effect until six months after the withdrawing state has given notice of the withdrawal to the Compact administrators of all other party states.

(b) No withdrawal shall affect the validity or applicability of any report of adverse action taken by the licensing board of a state that remains a party to the Compact if the adverse action occurred prior to the withdrawal.

(c) This Compact does not invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with this Compact.

(d) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

"*§ 90-171.92. Dispute resolution.*

If there is a dispute that cannot be resolved by the party states involved, the following procedure shall be used:

(1) The party states shall submit the issues in dispute to an arbitration panel that shall consist of an individual appointed by the Compact administrator in the home state, an individual appointed by the Compact administrator in the remote states involved, and an individual appointed by the Compact administrators of all the party states involved in the dispute.

(2) The decision of a majority of the arbitrators shall be final and binding.

"*§ 90-171.93. Construction and severability.*

This Compact shall be liberally construed so as to effectuate the purposes as stated in G.S. 90-171.81(b). The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters."

Section 2. Any nurse whose license has been restricted by the North Carolina Board of Nursing on the date this act becomes effective shall not practice in any other party state as defined in G.S. 90-171.82(12), as enacted in Section 1 of this act, during the time in which the license is restricted unless the nurse receives prior authorization from such other party state.

Section 3. The North Carolina Board of Nursing shall report to the General Assembly on the implementation of the provisions of this Compact no later than March 1, 2005.

Section 4. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 22nd day of June, 1999.

Became law upon approval of the Governor at 9:03 a.m. on the 2nd day of July, 1999.

S.B. 59 **SESSION LAW 1999-246**

AN ACT TO AMEND THE PHARMACY PRACTICE ACT TO PERMIT CERTAIN NONPROFIT CORPORATIONS TO OPERATE MOBILE PHARMACIES AND TO ALLOW SUCH PHARMACIES TO REGISTER ANNUALLY WITH THE BOARD OF PHARMACY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-85.3 is amended by adding a new subsection to read:

"(12) 'Mobile pharmacy' means a pharmacy that meets all of the following conditions:

(1) Is either self-propelled or moveable by another vehicle that is self-propelled.

(2) Is operated by a nonprofit corporation.

(3) Dispenses prescription drugs at no charge or at a reduced charge to persons whose family income is less than two hundred percent (200%) of the federal poverty level and who do not receive reimbursement for the cost of the dispensed

prescription drugs from Medicare, Medicaid, a private insurance company, or a governmental unit."

Section 2. G.S. 90-85.21 is amended by adding a new subsection to read:

"(a1) A mobile pharmacy shall register annually with the Board in the manner prescribed in subsection (a) of this section, and the registration shall be renewed annually. A mobile pharmacy shall be considered a single pharmacy and shall not be required to pay a separate registration fee for each location but shall pay the annual registration fee prescribed in G.S. 90-85.24. A mobile pharmacy shall provide the Board with the address of every location from which prescription drugs will be dispensed by the mobile pharmacy."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of June, 1999.

Became law upon approval of the Governor at 9:05 a.m. on the 2nd day of July, 1999.

H.B. 957 **SESSION LAW 1999-247**

AN ACT TO PROVIDE THAT AN ELECTRONIC OR FACSIMILE SIGNATURE OF A PHYSICIAN PROVIDING MEDICAL CERTIFICATION OF DEATH IS ACCEPTABLE IF APPROVED BY THE STATE REGISTRAR OF VITAL STATISTICS, TO AUTHORIZE ELECTRONIC MEDICAL RECORDS, AND TO CLARIFY WHICH ESTABLISHMENTS ARE SUBJECT TO REGULATION AS FOOD AND LODGING FACILITIES UNDER CHAPTER 130A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-115(c) reads as rewritten:

"(c) The medical certification shall be completed and signed by the physician in charge of the patient's care for the illness or condition which resulted in death, except when the death falls within the circumstances described in G.S. 130A-383. In the absence of the physician or with the physician's approval, the certificate may be completed and signed by an associate physician, the chief medical officer of the hospital or facility in which the death occurred or a physician who performed an autopsy upon the decedent under the following circumstances: the individual has access to the medical history of the deceased; the individual has viewed the deceased at or after death; and the death is due to natural causes. When specifically approved by the State Registrar, an electronic signature or facsimile signature of the physician shall be acceptable. As used in this section, the term electronic signature has the same meaning as applies in G.S. 66-58.2. The physician shall state the cause of death on the certificate in definite and precise terms. A certificate containing any indefinite terms or denoting only symptoms of disease or conditions resulting from disease as defined by the State Registrar, shall be returned to the

person making the medical certification for correction and more definite statement."

Section 2. Article 29 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"*§ 90-412. Electronic medical records.*

(a) Notwithstanding any other provision of law, any health care provider or facility licensed, certified, or registered under the laws of this State or any unit of State or local government may create and maintain medical records in an electronic format. The health care provider, facility, or governmental unit shall not be required to maintain a separate paper copy of the electronic medical record; however, when a consent to treatment or authorization to disclose medical record information is contained in a paper writing, the writing shall be preserved in a durable medium, and its existence and location shall be noted in the electronic record. A health care provider, facility, or governmental unit shall maintain electronic medical records in a legible and retrievable form, including adequate data backup.

(b) Notwithstanding any other provision of law, any health care provider or facility licensed, certified, or registered under the laws of this State or any unit of State or local government may permit authorized individuals to authenticate orders and other medical record entries by written signature, or by electronic or digital signature in lieu of a signature in ink. Medical record entries shall be authenticated by the individual who made or authorized the entry. For purposes of this section, 'authentication' means identification of the author of an entry by that author and confirmation that the contents of the entry are what the author intended.

(c) The legal rights and responsibilities of patients, health care providers, facilities, and governmental units shall apply to records created or maintained in electronic form to the same extent as those rights and responsibilities apply to medical records embodied in paper or other media. This subsection applies with respect to the security, confidentiality, accuracy, integrity, access to, and disclosure of medical records."

Section 3. G.S. 130A-247(4) reads as rewritten:

"(4) 'Establishment that prepares or serves drink' means a business or other entity that prepares or serves beverages made from raw apples or potentially hazardous beverages made from other raw fruits or vegetables or that otherwise puts together, portions, sets out, or hands out drinks ~~in unpackaged portions using containers that are reused on the premises rather than single-service containers.~~ for human consumption."

Section 4. G.S. 130A-247(5) reads as rewritten:

"(5) 'Establishment that prepares or serves food' means a business or other entity that cooks, puts together, portions, sets out, or hands out food ~~in unpackaged portions for human consumption.~~ for human consumption."

Section 5. G.S. 130A-250 reads as rewritten:

"*§ 130A-250. Exemptions.*

The following shall be exempt from this Part:

(1) Establishments that provide lodging described in G.S. 130A-248(a1) with four or fewer lodging ~~units;~~ units.

(2) ~~Condominiums;~~ Condominiums.

(3) Establishments that prepare or serve food or provide lodging to regular boarders or permanent house guests ~~only;~~ only.

(4) Private homes that occasionally offer lodging accommodations, which may include the providing of food, for two weeks or less to persons attending special events, provided these homes are not bed and breakfast homes or bed and breakfast ~~inns;~~ inns.

(5) Private ~~clubs;~~ clubs.

(6) Curb markets operated by the State Agricultural Extension ~~Service;~~ Service.

(7) Establishments that prepare or serve food or drink for pay no more frequently than once a month for a period not to exceed two consecutive ~~days;~~ days, including establishments permitted pursuant to this Part when preparing or serving food or drink at a location other than the permitted locations.

(8) Establishments that put together, portion, set out, or hand out only ~~drinks~~ beverages that do not include those made from raw apples or potentially hazardous beverages made from raw fruits or vegetables, using single service containers that are not reused on the ~~premises; and~~ premises.

(9) ~~Markets~~ Establishments where meat food products or poultry products are prepared and sold and which are under ~~the continuous~~ inspection by the North Carolina Department of Agriculture and Consumer Services or the United States Department of Agriculture.

(11) Establishments that only set out or hand out beverages that are regulated by the North Carolina Department of Agriculture and Consumer Services in accordance with Article 12 of Chapter 106 of the General Statutes.

(12) Establishments that only set out or hand out food that is regulated by the North Carolina Department of Agriculture and Consumer Services in accordance with Article 12 of Chapter 106 of the General Statutes."

Section 6. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 22nd day of June, 1999.

Became law upon approval of the Governor at 9:08 a.m. on the 2nd day of July, 1999.

H.B. 237 **SESSION LAW 1999-248**

AN ACT TO INCREASE THE FEE PAID TO AGENTS OF THE WILDLIFE RESOURCES COMMISSION TO AWARD CERTIFICATES OF BOAT NUMBER OR OTHER VESSEL TRANSACTION AND TO AMEND THE DUTIES OF THE WILDLIFE RESOURCES COMMISSION WITH REGARD TO THE APPOINTMENT OF AGENTS FOR THE ISSUANCE OF BOAT NUMBERS, TO RAISE THE REPORTING REQUIREMENT FOR BOATING ACCIDENTS TO DAMAGES IN EXCESS OF FIVE HUNDRED DOLLARS, AND TO REPEAL THE LAW REQUIRING PERMITS FROM THE WILDLIFE RESOURCES COMMISSION TO HOLD REGATTAS AND OTHER EVENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75A-5(e) reads as rewritten:

"(e) The Wildlife Resources Commission may ~~award~~ issue any ~~certificate of number~~ vessel transaction pursuant to the provisions of Article 1 or 4 of this Chapter directly or may authorize any person qualified as prescribed in subsection (l) of this section to act as agent for the ~~awarding thereof.~~ issuance of vessel transactions subject to the requirements set forth in this Chapter. ~~In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award,~~ Upon acceptance of this authorization, an agent's actions in issuing any vessel transaction pursuant to this Chapter ~~in conformity with this Chapter and with any rules and regulations of the Commission,~~ shall be valid as if ~~awarded~~ issued directly by the Commission. As compensation for ~~his services any such agent shall be allowed to retain for his own use fifty cents (50¢).~~ services rendered to the Commission and to the general public, the agent shall receive the following specified commission from the statutory fee for each listed transaction:

(1) Renewal of vessel registration - $1.25.
(2) Transfer of ownership and registration of a vessel - $3.00.
(3) Issuance of new certificate of vessel number and registration - $3.00.
(4) Issuance of duplicate vessel registration - $0.50.
(5) Issuance, transfer, duplication, or lien recordation of vessel title - $3.00.

It is a Class 1 misdemeanor for any such agent to charge or accept any additional fee, remuneration, or other thing of value for such services."

Section 2. G.S. 75A-5(l) reads as rewritten:

"(l) When certificates of number are to be issued by agents as provided by subsection (e) of this section, the Wildlife Resources Commission ~~is authorized by regulation to establish the qualifications of such agents, including, but not limited to, their financial~~

~~responsibility, the locations and types of business operated by them and their facilities for safekeeping of unused certificates of number, validation decals, and the monetary proceeds of certificates which have been issued; to prescribe the duties of such agents, including, but not limited to, the methods of issuing certificates of number and validation decals, the evidence of ownership of vessels to be numbered by applicants for number, the times and methods of making periodic and final reports of certificates and decals issued and remaining unissued and remittances of public moneys and unissued certificates and decals; to establish methods and procedures of ensuring accountability of such agents for the proceeds of certificates and decals issued and for certificates and decals remaining unissued; to require individual or blanket bonds of such agents in amounts sufficient to protect the State against loss of public moneys and unissued certificates and decals, the premiums for such bonds to be paid by the agents; to permit such agents to issue both original certificates of number and validation decals and renewals thereof or to limit such agents, or any of them, to the issuance of the originals only; to authorize some or all of such agents to issue temporary certificates of number for use during a limited time pending delivery of regular certificates of number and validation decals; to establish methods and procedures, including submission of the amounts and kinds of evidence which the Commission may deem sufficient, whereby any such agent may be relieved of accountability for the value of unissued certificates and validation decals, or of the monetary proceeds of those which have been issued, which have been lost or destroyed as the result of any occurrence which is beyond the control of such agent; and to prescribe such other reasonable requirements and conditions as the Commission may, in its discretion, deem necessary or desirable to expedite and control the issuance of certificates of number by such agents.~~ may establish administrative guidelines that prescribe:

(1) The qualifications of agents;

(2) The duties of agents;

(3) Methods and procedures to ensure accountability and security for proceeds and unissued certificates of number;

(4) Requirements for security bonds in amounts sufficient to protect the State against loss of public funds or documents;

(5) Methods and procedures, including submission of the kinds and amounts of evidence deemed sufficient to relieve an agent of responsibility for losses due to occurrences beyond the agent's control; and

(6) Any other reasonable requirement or condition deemed necessary and desirable to expedite and control the issuance of certificates of boat number by agents.

In accordance with ~~such regulations,~~ administrative guidelines developed pursuant to this section, the executive director ~~is authorized to prepare and distribute all forms necessary or convenient for application for and the appointment and bonding of such agents and for receipts, reports and remittances by such agents; to select and~~

~~appoint such agents in areas most convenient to the boating public and to limit the number of such agents in any locality; to require prompt and accurate reporting and remission of public moneys and unissued certificates and decals by such agents, and to require periodic or special audits of their accounts; to revoke or terminate any such agency for failure to make timely reports and remittances or to comply with any administrative directive or regulation of the Commission, or when he has reason to believe that State money or property is in jeopardy; and to require immediate surrender of all agency accounts, forms, certificates, decals and State moneys in the event of such revocation or termination of any such agency.~~ may:

(1) Select and appoint agents in the areas most convenient to the boating public and limit the number of agents in any one area if necessary for efficiency of operation;

(2) Require prompt and accurate reporting and remittance of public funds or documents by agents;

(3) Conduct periodic and special audits of accounts;

(4) Terminate the authorization of any agent found to be in noncompliance with administrative guidelines or directives of the Commission or when State funds or property are reasonably believed to be in jeopardy; and

(5) Demand the immediate surrender of all accounts, forms, certificates, decals, records, and State funds and property in the event of the termination of an agency.

A person who is denied the authority to act as an agent for the issuance of certificates of number and validation decals or whose authority to do so is revoked may not commence a contested case under G.S. 150B-23. ~~Any violation of the regulations authorized by this subsection shall be a Class 1 misdemeanor.~~ If any check or draft of any agent for the issuance of certificates of boat number shall be returned by the banking facility upon which the same is drawn for lack of funds, such agent shall be liable to the Wildlife Resources Commission for a penalty of five percent (5%) of the amount of such check or draft, but in no event shall such penalty be less than five dollars ($5.00) or more than two hundred dollars ($200.00). Agents shall be assessed a penalty of twenty-five percent (25%) of their issuing fee on all remittances to the Commission after the fifteenth day of the month immediately following the month of sale."

Section 3. G.S. 75A-11(b) reads as rewritten:

"(b) In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of ~~one~~ five hundred dollars ~~($100.00),~~ ($500.00), shall, within 10 days, file with the Wildlife Resources Commission a full description of the collision, accident, or other casualty, including such information as said agency may, by regulation, require. Such report shall not be admissible as evidence."

Section 4. G.S. 75A-14 is repealed.

Section 5. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 22nd day of June, 1999.

Became law upon approval of the Governor at 9:10 a.m. on the 2nd day of July, 1999.

S.B. 172 **SESSION LAW 1999-249**

AN ACT TO CLARIFY WHEN THE POSSESSION OF BLUE LIGHTS IS ILLEGAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-130.1 reads as rewritten:

"§ *20-130.1. Use of red or blue lights on vehicles prohibited; exceptions.*

. . .

(c) It is unlawful for any person to ~~install or activate or operate a blue light in or on any vehicle in this State. It is unlawful for any person to possess a blue light in or on any vehicle in this State.~~ possess a blue light or to install, activate, or operate a blue light in or on any vehicle in this State, except for a publicly owned vehicle used for law enforcement purposes or any other vehicle when used by law enforcement officers in the performance of their official duties. As used in this subsection, unless the context requires otherwise, "blue light" means an operable blue light ~~not sealed in the manufacturer's original package~~ which:

(1) Is not (i) being installed on, held in inventory for the purpose of being installed on, or held in inventory for the purpose of sale for installation on a vehicle on which it may be lawfully operated or (ii) installed on a vehicle which is used solely for the purpose of demonstrating the blue light for sale to law enforcement personnel;

(1a) Is designed for use by an emergency vehicle, or is similar in appearance to a blue light designed for use by an emergency vehicle; and

(2) Can be operated by use of the vehicle's battery, the vehicle's electrical system, or a dry cell battery.

~~(d) The provisions of subsection (c) of this section do not apply to a publicly owned vehicle used primarily for law-enforcement purposes or any other vehicle used primarily by law-enforcement officers in the performance of their official duties.~~"

Section 2. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law upon approval of the Governor at 9:15 a.m. on the 2nd day of July, 1999.

H.B. 228 **SESSION LAW 1999-250**

AN ACT RELATING TO THE STATE EMPLOYEES COMBINED CAMPAIGN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-340 is amended by adding a new subdivision to read:

"(26) To establish the State Employees Combined Campaign in the Department of Administration to allow State employees the opportunity to contribute to charitable nonpartisan organizations in an orderly and uniform process, with the authority to adopt all rules necessary to implement the campaign."

Section 2.(a) Any rule pertaining to the State Employees Combined Campaign adopted prior to the effective date of this act is ratified and affirmed.

Section 2.(b) This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Secretary of Administration may adopt temporary rules to implement the provisions of G.S. 143-340(26), as amended by Section 1 of this act.

Section 3. This act is effective when it becomes law and applies to any rule-making proceeding initiated by the Department of Administration for the State Employees Combined Campaign before that date.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law upon approval of the Governor at 9:18 a.m. on the 2nd day of July, 1999.

H.B. 283 **SESSION LAW 1999-251**

AN ACT TO AMEND THE STATE TREASURER'S INVESTMENT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-69.1 reads as rewritten:

"§ *147-69.1. Investments authorized for General Fund and Highway ~~Fund~~ Funds assets.*

(a) The Governor and Council of State, with the advice and assistance of the State Treasurer, shall adopt such rules and regulations as shall be necessary and appropriate to implement the provisions of this section.

(b) This section applies to funds held by the State Treasurer to the credit of:

(1) The General Fund;

(2) The Highway ~~Fund.~~ Fund and Highway Trust Fund.

(c) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

(1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;

(2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service, the Export-Import Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the Student Loan Marketing Association.

(3) Repurchase Agreements with respect to securities issued or guaranteed by the United States government or its agencies or other securities eligible for investment by this section executed by a bank or trust company or by primary or other reporting dealers to the Federal Reserve Bank of New York.

(4) Obligations of the State of North Carolina;

(5) ~~a. Savings certificates issued by any savings and loan association organized under the laws of the State of North Carolina or by any federal savings and loan association having its principal office~~ Time deposits of financial institutions with a physical presence in North ~~Carolina;~~ Carolina for the purpose of receiving commercial or retail deposits; provided that any principal amount of such ~~certificate~~ deposit in excess of the amount insured by the federal government or any agency thereof, ~~or by a mutual deposit guaranty association authorized by the Administrator of the Savings Institutions Division of the Department of Commerce of the State of North Carolina, be fully collateralized;~~ be fully secured by surety bonds, or

~~b. Certificates of deposit issued by banks organized under the laws of the State of North Carolina, or by any national bank having its principal office in North Carolina; provided that any principal amount of such certificate in excess of the amount insured by the federal government or any agency thereof,~~ be fully collateralized; provided further that

~~c. With respect to savings certificates and certificates of deposit,~~ the rate of return or investment yield may not be less than that available in the market on United States government or agency obligations of comparable maturity;

~~d. Shares of or deposits in any savings and loan association organized under the laws of the State of North Carolina, or any federal savings and loan association having its principal office in North Carolina; provided that any moneys invested in such shares or deposits in excess of the amount insured by the federal government or any agency thereof, or by a mutual deposit guaranty association authorized by the Administrator of the Savings Institutions Division of the Department of Commerce of the State of North Carolina, be fully secured by surety bonds, or be fully collateralized.~~

~~e.~~(6) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation.

~~f.~~(7) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.

~~g.~~(8) Asset-backed securities (whether considered debt or equity) provided they bear the highest rating of at least one nationally recognized rating service and do not bear a rating below the highest rating by any nationally recognized rating service which rates the particular securities.

~~h.~~(9) Corporate bonds and notes provided they bear the highest rating of at least one nationally recognized rating service and do not bear a rating below the highest by any nationally recognized rating service which rates the particular obligation.

~~(6) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.~~

(d) Unless otherwise provided by law, the interest or income received and accruing from all deposits or investments of such cash balances shall be paid into the State's General Fund, except that all interest or income received and accruing on the monthly balance of the Highway ~~Fund~~ Fund and Highway Trust Fund shall be paid into the State Highway ~~Fund.~~ Fund and Highway Trust Fund. The cash balances of the several funds may be combined for deposit or investment purposes; and when such combined deposits or investments

are made, the interest or income received and accruing from all deposits or investments shall be prorated among the funds in conformity with applicable law and the rules and regulations adopted by the Governor and Council of State.

(e) The State Treasurer shall cause to be prepared quarterly statements on or before the tenth day of January, April, July and October in each year, which shall show the amount of cash on hand, the amount of money on deposit, the name of each depository, and all investments for which he is in any way responsible. Each quarterly statement shall be delivered to the Governor and Council of State; and a copy shall be posted in the office of the State Treasurer for the information of the public.

(f) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.

(g) If and to the extent the General Assembly shall authorize the sale of all or any part of the stock owned by the State in the North Carolina Railroad Company or the Atlantic and North Carolina Railroad Company, the proceeds of any sale shall be separately accounted for and invested as expressly directed by the General Assembly, but in the absence of any express direction as to investment, the proceeds may be invested as authorized by this section."

Section 2. G.S. 147-69.2(a) reads as rewritten:

"(a) This section applies to funds held by the State Treasurer to the credit of:

(1) The Teachers' and State Employees' Retirement System,
(2) The Consolidated Judicial Retirement System,
(3) The Teachers' and State Employees' Hospital and Medical Insurance Plan,
(4) The General Assembly Medical and Hospital Care Plan,
(5) The Disability Salary Continuation Plan,
(6) The Firemen's and Rescue Workers' Pension Fund,
(7) The Local Governmental Employees' Retirement System,
(8) The Legislative Retirement System,
(9) The Escheat Fund,
(10) The Legislative Retirement Fund,
(11) The State Education Assistance Authority,
(12) The State Property Fire Insurance Fund,
(13) The Stock Workers' Compensation Fund,
(14) The Mutual Workers' Compensation Fund,
(15) The Public School Insurance Fund,
(16) The Liability Insurance Trust Fund,
(17) Trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1, ~~and~~
~~(17a)~~(18) North Carolina Veterans Home Trust ~~Fund.~~ Fund,
(19) North Carolina National Guard Pension Fund,
(20) Retiree Health Premium Reserve Account, and

~~(18)~~(21) Any other special fund created by or pursuant to law for purposes other than meeting appropriations made pursuant to the Executive Budget Act."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law upon approval of the Governor at 9:20 a.m. on the 2nd day of July, 1999.

H.B. 985 **SESSION LAW 1999-252**

AN ACT TO INCREASE THE BENCHMARK AT WHICH THE DEPARTMENT OF ADMINISTRATION IS REQUIRED TO ADVERTISE FOR PROPOSALS FOR LEASES BY THE STATE, TO CLARIFY WHEN THE DEPARTMENT MAY TRANSFER PROPERTY TO NONPROFIT ORGANIZATIONS AT LESS THAN FAIR-MARKET VALUE, TO SIMPLIFY THE LAW REGARDING STATE LEASES OF PROPERTY IN UNIQUE LOCATIONS, AND TO PROVIDE THAT ACQUISITIONS AND DISPOSITIONS OF REAL PROPERTY INTERESTS FOR THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM AND THE MEDICAL FACULTY PRACTICE PLAN OF THE SCHOOL OF MEDICINE OF EAST CAROLINA UNIVERSITY ARE SUBJECT TO RULES ADOPTED BY THE BOARD OF DIRECTORS OF THE HEALTH CARE SYSTEM AND THE BOARD OF TRUSTEES OF EAST CAROLINA UNIVERSITY RESPECTIVELY IN LIEU OF CERTAIN STATUTORY PROVISIONS GOVERNING STATE ACQUISITIONS AND DISPOSITIONS OF REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1G.S. 146-25.1(a) reads as rewritten:

"(a) If pursuant to G.S. 146-25, the Department of Administration determines that it is in the best interest of the State to lease or rent land and the rental is estimated to exceed ~~twelve thousand dollars ($12,000)~~ twenty-five thousand dollars ($25,000) per year or the term will exceed three years, the Department shall require the State agency desiring to rent land to prepare and submit for its approval a set of specifications for its needs. Upon approval of specifications, the Department shall prepare a public advertisement. The State agency shall place such advertisement in a newspaper of general circulation in the county for proposals from prospective lessors of said land and shall make such other distribution thereof as the Department directs. The advertisement shall be run for at least five consecutive days, and shall provide that proposals shall be received for at least seven days from the date of the last advertisement in the State Property Office of the Department. The provisions of this section do not apply to property owned by governmental agencies and leased to other governmental agencies."

Section 2. G.S. 146-29.1(c) reads as rewritten:

"(c) Real property owned by the State or by any State agency may be sold, leased, or rented at less than market value to a private, nonprofit corporation, association, organization or society ~~upon a determination by~~ if the Department of Administration ~~that such~~ determines both of the following:

(1) The transaction is in consideration of public service rendered or to be ~~rendered.~~ rendered by the nonprofit.

(2) The property will be used in connection with the nonprofit's tax-exempt purpose and not in connection with its unrelated trade or business, as defined in section 513 of the Code. For the purposes of this subdivision, the term "Code" has the same meaning as in G.S. 105-228.90.

The transaction shall be reported in detail at least 30 days prior to the sale, lease, or rental to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office. The fact that any sale of property under this subsection shall not be subject to a reversionary interest in the State shall be expressly made known to the Joint Legislative Commission on Government Operations, and the Governor and Council of State, prior to the transaction being authorized. ~~In the case of a private, nonprofit corporation, association, organization, or society that engages in some for-profit activities, the amount of the sale, lease, or rent shall be not less than the fair market value of the property times the percentage of the total activities of the corporation, association, organization, or society that are for profit.~~"

Section 3. G.S. 146-32 reads as rewritten:

"§ *146-32. Exemptions as to leases, etc.*

The Governor, acting with the approval of the Council of State, may adopt rules and regulations.

(1) Exempting from any or all of the requirements of this Subchapter such classes of lease, rental, easement, and right-of-way transactions as he deems advisable; and

(2) Authorizing any State agency to enter into and/or approve those classes of transactions exempted by such rules and regulations from the requirements of this Chapter.

(3) No rule or regulation adopted under this section may exempt from the provisions of G.S. 146-25.1 any class of lease or rental which has a duration of more than 21 days, unless the class of lease or rental:

a. Is a lease or rental necessitated by a fire, flood, or other disaster that forces the agency seeking the new lease or rental to cease use of real property; ~~or~~

b. Is a lease or rental necessitated because an agency had intended to move to new or renovated real property that was not completed when planned, but a lease or rental exempted under this subparagraph may not be for a period of more than six ~~months.~~ months; or

c. Is a lease or rental which requires a unique location or a location that adjoins or is in close proximity to an existing rental location."

Section 4.(a) G.S. 116-37(i) reads as rewritten:

"(i) Property. -- ~~Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the~~ The board of directors shall establish rules and regulations ~~to perform the functions otherwise prescribed for the Department of Administration in~~ for acquiring or disposing of any interest in real property for the use of the University of North Carolina Health Care System. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Health Care System. This section does not authorize the board of directors to encumber real property. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina Health Care System shall promptly file a report concerning the acquisition or disposition with the Governor and Council of State. Acquisitions and dispositions of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes."

Section 4.(b) G.S. 116-40.6(d) reads as rewritten:

"(d) Property. -- ~~Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the~~ The board of trustees shall establish rules and regulations ~~to perform the functions otherwise prescribed for the Department of Administration in~~ for acquiring or disposing of any interest in real property for the use of the Medical Faculty Practice Plan. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the Medical Faculty Practice Plan. This section does not authorize the board of trustees to encumber real property. Such rules and regulations shall be implemented by a property office maintained by East Carolina University. The board of trustees shall submit all initial rules and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption. Any subsequent changes to these rules and regulations shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chancellor of East Carolina University

and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, East Carolina University shall promptly file, on behalf of the Medical Faculty Practice Plan, a report concerning the acquisition or disposition with the Governor and Council of State. Acquisitions and dispositions of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law upon approval of the Governor at 9:25 a.m. on the 2nd day of July, 1999.

H.B. 1104 **SESSION LAW 1999-253**

AN ACT CLARIFYING THE DESIGNATION OF EXEMPT POSITIONS IN STATE GOVERNMENT EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-5(d)(5) reads as rewritten:

"(5) Creation, Transfer, or Reorganization. -- The Governor, elected department head, or State Board of Education may designate as exempt a ~~policymaking~~ position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after May 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 120 days after such position is created, transferred, or in which reorganization has occurred."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

Became law upon approval of the Governor at 9:28 a.m. on the 2nd day of July, 1999.

S.B. 843 **SESSION LAW 1999-254**

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO INCREASE THE ANNUAL FEE CHARGED NURSES AIDES II.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-171.55(a) reads as rewritten:

"(a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing facilities who meet applicable State and federal registry requirements as adopted by the North Carolina Medical Care Commission as having fulfilled the training and registry requirements of the ~~Board, except for the fee requirements prescribed by this section.~~ Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board may charge an annual fee of ~~five dollars ($5.00) for each registry applicant.~~ twelve dollars ($12.00) for each nurse aide II registry applicant. The Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer or prospective employer of the registry applicant. Fees collected may be used by the Board in administering the registry. The Board's authority granted by this Article shall not conflict with the authority of the Medical Care Commission."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law upon approval of the Governor at 9:30 a.m. on the 2nd day of July, 1999.

H.B. 841 **SESSION LAW 1999-255**

AN ACT TO AMEND THE CARRBORO TOWN CHARTER TO AUTHORIZE THE GOVERNING BODY TO OFFER INCENTIVES TO ENCOURAGE MORE AFFORDABLE HOUSING UNITS AND TO CHANGE THE NAME OF THE CARRBORO BOARD OF ALDERMEN, AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION AND TO AMEND THE CHAPEL HILL CHARTER TO ALLOW THE TOWN COUNCIL TO REQUIRE CANDIDATES FOR ELECTIVE TOWN OFFICE TO DISCLOSE THE NAMES OF CAMPAIGN CONTRIBUTORS AND TO LIMIT BY ORDINANCE THE AMOUNT THAT PERSONS MAY CONTRIBUTE TO A CANDIDATE OR THEIR POLITICAL COMMITTEE AND TO ALLOW THE REGULATION OF OPEN BURNING, AND TO ALLOW HALF-DAY SHIFTS FOR ELECTION JUDGES IN ORANGE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 9-2 of the Carrboro Town Charter, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"Section 9-2. Unified Development Ordinance. The board of aldermen may combine into a single ordinance or unified land use code any of the ordinances that it is permitted to adopt pursuant to the

authority granted in Article 19 of Chapter 160A of the General Statutes or any local act applicable to the Town of Carrboro that deals with the subject matters contained in Article 19 of Chapter 160A of the General Statutes. In a unified development ordinance the board may provide that subdivision preliminary plat approval be granted in the same manner as any other conditional use permit is issued, including the attachment of reasonable conditions to such approval. The Town may provide by ordinance for appropriate incentives to encourage that residential developments contain housing units that are affordable to low- or moderate-income persons."

Section 2. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, councillors, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, Board of Councillors, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, Board of Councillors, or Town Council, as determined by resolution of the Town of Carrboro."

Section 3. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 4. Chapter II of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new sections to read:

"Sec. 2.6. Disclosure of contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all contributors to their campaigns. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaigns.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Chapel Hill.

"Sec. 2.7. Limitation on contributions.

Except as provided by G.S. 163-278.13(c), the Town Council may by ordinance limit the amount of contributions which any individual, person, or political committee may contribute to any candidate for town office or to any political committee of that candidate. The ordinance may not set a limitation which has a dollar amount greater than the dollar amount set in the general law which would apply to elective office in the town.

"Sec. 2.8. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Sections 2.6 and 2.7 of this Charter."

Section 5. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new Article to read:

"Article 9. Regulation of Open Burning.

"Sec. 5.50. After conducting a public hearing, the Town may adopt ordinances to regulate and prohibit the open burning of trees, limbs, stumps, and construction debris within the Town or the Town's extraterritorial jurisdiction.

The Town may, as a condition of approval for any permit for a subdivision, clearing and development of land, or construction of buildings within the Town or the Town's extraterritorial jurisdiction, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

Section 6.(a) G.S. 163-47(a) reads as rewritten:

"(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity. Notwithstanding the requirement in the previous sentence, the county boards of elections may allow judges of election to serve for half-day shifts."

Section 6.(b) This section applies to Orange County only.

Section 7. Section 3 of this act applies only to the Town of Chapel Hill.

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 1999.

Became law on the date it was ratified.

S.B. 625 **SESSION LAW 1999-256**

AN ACT TO REPEAL AN OBSOLETE SECTION OF THE CHARTER OF THE CITY OF DURHAM REGARDING THE PRIVILEGE LICENSE TAX YEAR.

The General Assembly of North Carolina enacts:

Section 1. Section 47 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, is repealed.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 1999.

Became law on the date it was ratified.

H.B. 517 **SESSION LAW 1999-257**

AN ACT INCREASING THE CRIMINAL PENALTY FOR A SECOND OR SUBSEQUENT OFFENSE OF MAKING A BOMB THREAT OR PERPETRATING A HOAX BY PLACING A FALSE BOMB AT A PUBLIC BUILDING, PROVIDING FOR RESTITUTION OF CONSEQUENTIAL DAMAGES RESULTING FROM BOMB THREATS OR HOAXES, INCREASING THE PENALTY FOR BRINGING CERTAIN WEAPONS ON SCHOOL PROPERTY, INCREASING THE PENALTY FOR BOMB THREATS OR HOAXES, BRINGING A BOMB ON SCHOOL PROPERTY, OR ACTUAL DETONATION OF A BOMB BY REQUIRING THE DIVISION OF MOTOR VEHICLES TO REVOKE FOR ONE YEAR THE DRIVERS LICENSE OF ANY PERSON CONVICTED OF SUCH AN OFFENSE, MAKING PARENTS CIVILLY LIABLE FOR CHILDREN WHO MAKE BOMB THREATS OR PERPETRATE BOMB HOAXES ON SCHOOLS, OR BRING CERTAIN WEAPONS ONTO SCHOOL PROPERTY, REQUIRING SCHOOLS TO SUSPEND FOR THREE HUNDRED SIXTY-FIVE DAYS STUDENTS WHO MAKE BOMB THREATS OR PERPETRATE BOMB HOAXES ON SCHOOLS, DIRECTING THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO STUDY THE ISSUE OF STUDENTS WHO MAKE OR CARRY OUT THREATS OF VIOLENCE DIRECTED AT SCHOOLS OR THE PERSONS IN THE SCHOOLS, AND DIRECTING THE STATE BOARD OF EDUCATION TO STUDY THE COMPUTATION OF DROPOUT RATES FOR THE ABCs PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-69.1 reads as rewritten:

"§ *14-69.1. Making a false report concerning destructive device.*

(a) ~~If any~~ Except as provided in subsection (c) of this section, any person ~~shall,~~ who, by any means of communication to any person or group of persons, ~~make~~ makes a report, knowing or having reason to know the ~~same to be~~ report is false, that there is located in any building, house or other structure whatsoever or any vehicle, aircraft, vessel or boat any device designed to destroy or damage the building, house or structure or vehicle, aircraft, vessel or boat by explosion, blasting or burning, ~~he shall be~~ is guilty of a Class H felony.

(b) Repealed by S.L. 1997-443, s. 19.25(cc).

(c) Any person who, by any means of communication to any person or groups of persons, makes a report, knowing or having reason to know the report is false, that there is located in any public building any device designed to destroy or damage the public building by explosion, blasting, or burning, is guilty of a Class H felony. Any person who receives a second conviction for a violation of this subsection within five years of the first conviction for violation of this subsection is guilty of a Class G felony. For purposes of this subsection, 'public building' means educational property as defined in G.S. 14-269.2(a)(1), a hospital as defined in G.S. 131E-76(3), a building housing only State, federal, or local government offices, or the offices of State, federal, or local government located in a building that is not exclusively occupied by the State, federal, or local government.

(d) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from the disruption of the normal activity that would have otherwise occurred on the premises but for the false report, pursuant to Article 81C of Chapter 15A of the General Statutes.

(e) For purposes of this section, the term 'report' shall include making accessible to another person by computer."

Section 2. G.S. 14-69.2 reads as rewritten:

"§ *14-69.2. Perpetrating hoax by use of false bomb or other device.*

(a) ~~If any person,~~ Except as provided in subsection (c) of this section, any person who, with intent to perpetrate a hoax, ~~shall secrete, place or display~~ conceals, places, or displays any device, machine, instrument or artifact, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or ~~property, he shall be~~ property is guilty of a Class H felony.

(b) Repealed by S.L. 1997-443, s. 19.25(dd).

(c) Any person who, with intent to perpetrate a hoax, conceals, places, or displays in or at a public building any device, machine, instrument, or artifact, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property is guilty of a Class H felony. Any person who receives a second conviction for a violation of this subsection within five years of the first conviction for violation of this subsection is

guilty of a Class G felony. For purposes of this subsection 'public building' means educational property as defined in G.S. 14-269.2(a)(1), a hospital as defined in G.S. 131E-76(3), a building housing only State, federal, or local government offices, or the offices of State, federal, or local government located in a building that is not exclusively occupied by the State, federal, or local government.

(d) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from the disruption of the normal activity that would have otherwise occurred on the premises but for the hoax, pursuant to Article 81C of Chapter 15A of the General Statutes."

Section 3. G.S. 14-269.2 reads as rewritten:

"§ *14-269.2. Weapons on campus or other educational property.*

(a) The following definitions apply to this section:

(1) Educational property. -- Any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any board of education, school, college, or university board of trustees, or directors for the administration of any public or private educational institution.

(2) Student. -- A person enrolled in a public or private school, college or university, or a person who has been suspended or expelled within the last five years from a public or private school, college or university, whether the person is an adult or a minor.

(3) Switchblade knife. -- A knife containing a blade that opens automatically by the release of a spring or a similar contrivance.

(4) Weapon. -- Any device enumerated in subsection ~~(b)~~ (b), (b1), or (d) of this section.

(b) It shall be a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any ~~kind, or any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1,~~ kind on educational property. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

(b1) It shall be a Class G felony for any person to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational property. This subsection shall not apply to fireworks.

(c) It shall be a Class I felony for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any ~~kind, or any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1,~~ kind on educational property. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

(c1) It shall be a Class G felony for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1 on educational property. This subsection shall not apply to fireworks.

(d) It shall be a Class 1 misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), ~~and~~ firework, or any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(e) It shall be a Class 1 misdemeanor for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), ~~and~~ firework, or any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(f) Notwithstanding subsection (b) of this section it shall be a Class 1 misdemeanor rather than a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, on educational property if:

(1) The person is not a student attending school on the educational property;

(2) The firearm is not concealed within the meaning of G.S. 14-269;

(3) The firearm is not loaded and is in a locked container, a locked vehicle, or a locked firearm rack which is on a motor vehicle; and

(4) The person does not brandish, exhibit, or display the firearm in any careless, angry, or threatening manner.

(g) This section shall not apply to:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;

(1a) A person exempted by the provisions of G.S. 14-269(b);

(2) Firefighters, emergency service personnel, North Carolina Forest Service personnel, and any private police employed by an educational institution, when acting in the discharge of their official duties; or

(3) Home schools as defined in G.S. 115C-563(a)."

Section 3.1. If Senate Bill 1096, 1999 Regular Session, becomes law, then G.S. 14-269.2(b1), as enacted by Section 3 of this act, reads as rewritten:

"(b1) It shall be a Class G felony for any person to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational ~~property.~~ property or to a curricular or extracurricular activity sponsored by a school. This subsection shall not apply to fireworks."

Section 4. G.S. 20-13.2 is amended by adding a new subsection to read:

"(c2) The Division must revoke the permit or license of a person under the age of 18 upon receiving a record of the person's conviction for malicious use of an explosive or incendiary device to damage property (G.S. 14-49(b) and (b1)); conspiracy to injure or damage by use of an explosive or incendiary device (G.S. 14-50); making a false report concerning a destructive device in a public building (G.S. 14-69.1(c)); perpetrating a hoax concerning a destructive device in a public building (G.S. 14-69.2(c)); possessing or carrying a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(b1)); or causing, encouraging, or aiding a minor to possess or carry a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(c1))."

Section 4.1. G.S. 20-17(a) is amended by adding a new subdivision to read:

"§ *20-17. Mandatory revocation of license by Division.*

(a) The Division shall forthwith revoke the license of any driver upon receiving a record of the driver's conviction for any of the following offenses:

(1) Manslaughter (or negligent homicide) resulting from the operation of a motor vehicle.

(2) Either of the following impaired driving offenses:
   a. Impaired driving under G.S. 20-138.1.
   b. Impaired driving under G.S. 20-138.2.

(3) Any felony in the commission of which a motor vehicle is used.

(4) Failure to stop and render aid in violation of G.S. 20-166(a) or (b).

(5) Perjury or the making of a false affidavit or statement under oath to the Division under this Article or under any other law relating to the ownership of motor vehicles.

(6) Conviction upon two charges of reckless driving committed within a period of 12 months.

(7) Conviction upon one charge of reckless driving while engaged in the illegal transportation of intoxicants for the purpose of sale.

(8) Conviction of using a false or fictitious name or giving a false or fictitious address in any application for a drivers license, or learner's permit, or any renewal or duplicate thereof, or knowingly making a false statement or knowingly concealing a material fact or otherwise committing a fraud in any such application or procuring or

knowingly permitting or allowing another to commit any of the foregoing acts.

(9) Death by vehicle as defined in G.S. 20-141.4.

(10) Repealed by Session Laws 1997-443, s. 19.26(b).

(11) Conviction of assault with a motor vehicle.

(12) A second or subsequent conviction of transporting an open container of alcoholic beverage under G.S. 20-138.7.

(13) A second or subsequent conviction, as defined in G.S. 20-138.2A(d), of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A.

(14) A conviction of driving a school bus, school activity bus, or child care vehicle after consuming alcohol under G.S. 20-138.2B.

(15) A conviction of malicious use of an explosive or incendiary device to damage property (G.S. 14-49(b) and (b1)); conspiracy to injure or damage by use of an explosive or incendiary device (G.S. 14-50); making a false report concerning a destructive device in a public building (G.S. 14-69.1(c)); perpetrating a hoax concerning a destructive device in a public building (G.S. 14-69.2(c)); possessing or carrying a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(b1)); or causing, encouraging, or aiding a minor to possess or carry a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(c1))."

Section 5. Article 43 of Chapter 1 of the General Statutes is amended by adding the following new section to read:

"*§ 1-538.3. Negligent supervision of minor.*

(a) The parent or individual legal guardian who has the care, custody, and control of an unemancipated minor may be held civilly liable to an educational entity for the negligent supervision of that minor if the educational entity proves by clear, cogent, and convincing evidence that:

(1) The minor:

a. Violated the provisions of G.S. 14-49, 14-49.1, 14-50, 14-69.1(c), 14-69.2(c), 14-269.2(b1), 14-269.2(c1), or committed a felony offense involving injury to persons or property through use of a gun, rifle, pistol, or other firearm of any kind as defined in G.S. 14-269.2(b); and

b. The offense occurred on educational property; and

(2) The parent or individual legal guardian who has the care, custody, and control of the minor:

a. Knew or reasonably should have known of the minor's likelihood to commit such an act;

b. Had the opportunity and ability to control the minor; and

c. Made no reasonable effort to correct, restrain, or properly supervise the minor.

(b) In an action brought against the parent or legal guardian under this section for a false report, hoax, or possession of a bomb or other explosive device on educational property, the educational entity is entitled to recover the actual compensatory and consequential damages resulting from the disruption or dismissal of school or the school-sponsored activity arising from the false report, the hoax, the bringing or possession of a bomb or other explosive device onto educational property or to a school-sponsored activity. The total amount of compensatory and consequential damages awarded to a plaintiff against the parent or legal guardian pursuant to this subsection shall not exceed twenty-five thousand dollars ($25,000).

(c) In an action brought against the parent or legal guardian under this section, the educational entity is entitled to recover the actual compensatory and consequential damages to educational property that is the result of the discharge of the firearm or the detonation or explosion of the bomb or other explosive device. The total amount of compensatory and consequential damages awarded to a plaintiff against the parent or legal guardian pursuant to this subsection shall not exceed fifty thousand dollars ($50,000).

(d) For purposes of this section, the term 'educational property' has the same definition as in G.S. 14-269.2(a)(1), and the term 'educational entity' means the board of education or other entity that administers and controls the educational property or the school-sponsored activity.

(e) Nothing contained in this section shall prohibit recovery upon any other theory in the law."

Section 6. G.S. 115C-391(d1) reads as rewritten:

"(d1) A local board of education or superintendent shall suspend for 365 calendar days any student who brings a weapon, as defined in ~~G.S. 14-269.2(b)~~ G.S. 14-269.2(b), 14-269.2(b1), and ~~G.S.~~ 14-269.2(g), onto ~~school~~ educational property. The local board of education upon recommendation by the superintendent may modify this suspension requirement on a case-by-case basis that includes, but is not limited to, the procedures established for the discipline of students with disabilities and may also provide, or contract for the provision of, educational services to any student suspended pursuant to this subsection in an alternative school setting or in another setting that provides educational and other services."

Section 7. G.S. 115C-391 is amended by adding the following new subsection to read:

"(d3) A local board of education shall suspend for 365 calendar days any student who, by any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that there is located on educational property or at a school-sponsored activity off educational property any device designed to destroy or damage property by explosion, blasting, or burning, or who, with intent to perpetrate a hoax, conceals, places, or displays any device, machine, instrument, or artifact on educational property or at a school-related activity on or off educational property,

so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property. The local board upon recommendation by the superintendent may modify either suspension requirement on a case-by-case basis that includes, but is not limited to, the procedures established for the discipline of students with disabilities and may also provide, or contract for the provision of, educational services to any student suspended under this subsection in an alternative school setting or in another setting that provides educational and other services. For purposes of this subsection and subsection (d1) of this section, the term 'educational property' has the same definition as in G.S. 14-269.2(a)(1)."

Section 8. G.S. 115C-391(e) reads as rewritten:

"(e) A decision of a superintendent under subsection (c), (d1), ~~or (d2)~~ (d2), or (d3) of this section may be appealed to the local board of education. A decision of the local board upon this appeal or of the local board under subsection (d) or (d1) of this section is final and, except as provided in this subsection, is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision."

Section 9. The Joint Legislative Education Oversight Committee, in consultation with the State Board of Education, the Office of Juvenile Justice, the Center for the Prevention of School Violence, local boards of education, and the North Carolina Congress of Parents and Teachers, shall examine the issue of students who threaten to commit or who carry out acts of violence directed at schools and the persons who are present in the schools. As part of this study, the Committee shall: (i) evaluate current laws governing the discipline, suspension, and expulsion of these students; (ii) assess the availability of psychological evaluations and counseling services for these students; (iii) evaluate current criminal and juvenile laws to make sure local authorities are authorized to take immediate action and to ensure the consequences for these acts and threats are taken seriously; (iv) review how other states are approaching this issue; (v) identify effective education practices to prevent these threats or acts of violence; (vi) examine the accessibility of guns and explosive devices to minors; and (vii) consider any other issue it considers appropriate. The Committee may make recommendations, including necessary appropriations, to the 2000 Regular Session of the 1999 General Assembly.

Section 10. The State Board of Education, in consultation with the Office of Juvenile Justice, the Department of Correction, and the Community Colleges System Office, shall study the method for computing dropout rates for the School-Based Management and Accountability Program (ABCs). The State Board of Education shall recommend whether the computation used to set the dropout rate for this purpose should include students who (i) transfer to a community college; (ii) are placed by the courts in a setting which provides educational opportunities; (iii) are expelled from school; (iv) do not

return to school after a long-term suspension in accordance with a safe school plan; or (v) have been counted previously as dropouts. As a part of this study, the State Board of Education shall report, from data for the 1998-99 school year, the number of students in each of these categories. The State Board of Education shall examine whether it should continue to use other methods of computing the dropout rate for other purposes.

Section 11. The State Board of Education shall report to the Joint Legislative Education Oversight Committee by December 15, 1999, regarding its recommendations as to the computation of the dropout rates for the ABCs accountability program. This report shall include the number of dropouts for the 1998-99 school year based on categories (i) and (iii) through (v) in subsection (a) of this section. The report also shall include the number of dropouts for the 1998-99 school year based on category (ii) in subsection (a) of this section if this information is available.

Section 12. Sections 6, 7, 8, 9, 10, and 11 of this act are effective when this act becomes law, and Section 6 applies to offenses committed on or after that date. Sections 1, 2, 3, and 5 of this act are effective on September 1, 1999, and apply to offenses committed on or after that date. Sections 4 and 4.1 of this act are effective September 1, 1999, and apply to causes of action arising on or after that date. Section 3.1 is effective December 1, 1999, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 7th day of July, 1999.

Became law upon approval of the Governor at 6:05 p.m. on the 7th day of July, 1999.

H.B. 764 **SESSION LAW 1999-258**

AN ACT TO AUTHORIZE THE TOWN OF MOORESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 296 of the 1991 Session Laws, as amended by Section 4 of Chapter 577 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Mooresville Town Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to

accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Mooresville Town Board of Commissioners may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The total rate of tax levied under subsections (a) and (a1) of this section, when combined with the rate of room occupancy tax levied by Iredell County, may not exceed six percent (6%). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The Town of Mooresville may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of~~

~~five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~

(e) Disposition of tax proceeds. The Town of Mooresville ~~shall set aside in a special account fifty percent (50%) of the net proceeds of the occupancy tax and shall spend these funds to promote travel and tourism. The Town of Mooresville shall remit the remaining proceeds of the tax to its general fund and may use these funds for any lawful purpose. As used in this subsection, "net proceeds" means gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer.~~ shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mooresville Travel and Tourism Authority. The Authority shall use at least seventy-five percent (75%) of the net proceeds of the occupancy tax to promote travel and tourism in Mooresville and shall use the remainder for tourism-related expenditures.

(f) Definitions. The following definitions apply in this section:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

~~Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Mooresville Town Board of Commissioners.~~

~~Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. Section 2 of Chapter 296 of the 1991 Session Laws reads as rewritten:

"Sec. 2. Travel and Tourism Authority. (a) Appointment and membership. After the Town of Mooresville adopts a resolution levying an occupancy tax under this act, it shall also adopt a resolution creating a Travel and Tourism Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The membership of the Authority shall consist of: two members representing the Mooresville-South Iredell Chamber of Commerce; two members representing the motel or travel and tourism industry; and one member of the Mooresville Town Board. The resolution shall provide for terms of office, and for the filling of vacancies on the Authority. The Mooresville Town Board shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. Members shall serve at the pleasure of the Mooresville Town Board.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Mooresville shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the Greater Mooresville area; sponsor tourism related events and activities; and finance tourism related capital projects in the Greater Mooresville ~~area with the fifty percent (50%) of the net proceeds set aside by the Town of Mooresville, all disbursements from which shall be subject to approval by the Mooresville Town Board.~~ area.

(c) Reports. The Authority shall report at the close of the fiscal year to the Mooresville Town Board, or more often if required by said Board, on its receipts and expenditures for the preceding year in such detail as the Board may require."

Section 3. Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of St. Pauls~~ Towns of Mooresville and St. Pauls, and to the municipalities in Brunswick County."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 1999.

Became law on the date it was ratified.

H.B. 855 **SESSION LAW 1999-259**

AN ACT ALLOWING THE TOWN OF KINGS MOUNTAIN WITH THE APPROVAL OF THE CLEVELAND AND GASTON COUNTY BOARDS OF COMMISSIONERS TO EXERCISE EXTRATERRITORIAL JURISDICTION OVER AN AREA EXTENDING TWO MILES FROM THE TOWN'S CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 160A-360(a), the Town of Kings Mountain may, with the approval of the Cleveland and Gaston County Boards of Commissioners, exercise the powers granted in Article 19 of Chapter 160A of the General Statutes within a defined area and within Cleveland County and Gaston County extending not more than two miles beyond the Town's corporate limits. The exercise of powers under this act shall be subject to the provisions of G.S. 160A-360.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 1999.

Became law on the date it was ratified.

S.B. 192 **SESSION LAW 1999-260**

AN ACT TO PROVIDE FOR THE FILING WITH THE SECRETARY OF STATE OF ALL MEMORANDA OF UNDERSTANDING AND AGREEMENTS OF A NONCOMMERCIAL NATURE BETWEEN THE STATE OF NORTH CAROLINA AND FOREIGN GOVERNMENTS, TO AUTHORIZE THE SECRETARY OF STATE TO PROVIDE INTERNATIONAL RELATIONS ASSISTANCE AND TO PUBLISH PUBLICATIONS ELECTRONICALLY, AND TO PROVIDE FOR GUBERNATORIAL OVERSIGHT OF AGREEMENTS INVOLVING THE STATE AND FOREIGN GOVERNMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 35.

"Agreements Between North Carolina and Foreign Governments.

"§ 66-275. *Agreements between North Carolina and foreign governments to be filed.*

(a) A copy of all executed memoranda of understanding and agreements of a noncommercial nature otherwise subject to disclosure under the public record laws of this State, entered into by the State of North Carolina, or any agency of the State, and a foreign government shall be filed by the State agency with the Secretary of State.

(b) Notwithstanding subsection (a) of this section, the validity or enforceability of any memoranda or agreement subject to this section shall not be affected by the failure to comply with subsection (a) of this section. Documents required to be filed with the Secretary of State under this section shall be indexed and made available to the public in accordance with Chapter 132 of the General Statutes.

(c) For purposes of this section, 'foreign government' means a foreign country's government that is recognized and accredited by the United States Department of State, and includes governmental subdivisions of that country. For purposes of this section, 'agency of the State' does not include public educational institutions with respect to their educational, research, or extension activities."

Section 2. G.S. 147-54.1 reads as rewritten:

"§ *147-54.1. Division of Publications; duties.*

The Secretary of State is authorized to set up a division to be designated as the Division of Publications and to appoint a director thereof who shall be known as the Director of Publications. This Division shall publish the North Carolina Manual, Directory, Index of Local Legislation and such other publications as may be useful to the members and committees of the General Assembly and other officials of the State and of the various counties and cities. Unless otherwise required by law, the Secretary may publish electronically information permitted or required by this section. The Secretary may sell these publications at such prices as ~~he~~ the Secretary deems reasonable; the proceeds of sale shall be paid into the State treasury.

The Division shall also perform all such other duties as may be assigned by the Secretary of State."

Section 3. Article 4 of Chapter 147 is amended by adding a new section to read:

"§ *147-54.5. International relations assistance.*

(a) The Secretary of State may offer direct and indirect assistance in matters relating to international relations and protocol to other governmental agencies and units of the State of North Carolina. The assistance may be provided upon request of the intended recipient when resources are available for these purposes.

(b) The Secretary of State, on behalf of the State, may accept gifts, donations, bequests, or other forms of voluntary contributions, apply for grants from public and private sources, and may expend funds received under this subsection for the purpose of promoting international relations and hosting foreign dignitaries and leaders in North Carolina. All funds and gifts received pursuant to this subsection shall be subject to audit by the Office of the State Auditor and all funds shall be expended in conformity with the Executive Budget Act and shall become the property of the State."

Section 4. G.S. 147-12 reads as rewritten:

"§ *147-12. Powers and duties of Governor.*

In addition to the powers and duties prescribed by the Constitution, the Governor has the powers and duties prescribed in this and the following sections:

(1) ~~He is to~~ To supervise the official conduct of all executive and ministerial officers; and when ~~he shall deem~~ the Governor deems it advisable ~~he shall~~ to visit all State institutions for the purpose of inquiring into the management and needs of the same.

(2) ~~He is to~~ To see that all offices are filled, and the duties thereof performed, or in default thereof apply such remedy as the law allows, and if the remedy is imperfect, acquaint the General Assembly therewith.

(3) ~~He is to~~ To make the appointments and fill the vacancies not otherwise provided for in all departments.

In every case where the Governor is authorized by statute to make an appointment to fill a State office, ~~he~~ the Governor may also appoint to fill any vacancy occurring in that office, and the person ~~he~~ the Governor appoints shall serve for the unexpired term of the office and until ~~his~~ the person's successor is appointed and qualified.

In every case where the Governor is authorized by statute to appoint to fill a vacancy in an office in the executive branch of State government, the Governor may appoint an acting officer to serve

a. During the physical or mental incapacity of the regular holder of the office to discharge the duties of ~~his~~ the office,

b. During the continued absence of the regular holder of the office, or

c. During a vacancy in an office and pending the selection and qualification, in the manner prescribed by statute, of a person to serve for the unexpired term.

An acting officer appointed in accordance with this subsection may perform any act and exercise any power which a regularly appointed holder of such office could lawfully perform and exercise. All powers granted to an acting officer under this subsection shall expire immediately

a. Upon the termination of the incapacity of the officer in whose stead ~~he~~ the person acts,

b. Upon the return of the officer in whose stead ~~he~~ the person acts, or

c. Upon the selection and qualification, in the manner prescribed by statute, of a person to serve for the unexpired term.

The Governor may determine (after such inquiry as ~~he~~ the Governor deems appropriate) that any of the officers referred to in this paragraph is physically or mentally

incapable of performing the duties of ~~his~~ the office. The Governor may also determine that such incapacity has terminated.

The compensation of an acting officer appointed pursuant to the provisions of this subdivision shall be fixed by the Governor. Prior to taking any action under this paragraph, the Governor may consult with the Advisory Budget Commission.

(3a) ~~The Governor may~~ To make appointments to fill vacancies in offices subject to appointment by the General Assembly as provided in G.S. 120-122.

(3b) Whenever a statute calls for the Governor to appoint one person from each congressional district to a board or commission, and at the time of enactment of that statute, the gubernatorial appointments do not cover all of the congressional districts, then the Governor, in filling vacancies on that board or commission as they occur, shall make appointments to satisfy that requirement, but shall not be required to remove any person from office to satisfy the requirement.

(3c) Notwithstanding any other provision of law, whenever a statute calls for the Governor to appoint a person to an office subject to confirmation by the General Assembly, the Governor shall notify the President of the Senate and the Speaker of the House of Representatives by May 15 of the year in which the appointment is to be made of the name of the person ~~he~~ the Governor is submitting to the General Assembly for confirmation.

(3d) Notwithstanding any other provision of law, whenever a statute calls for the Governor to appoint a person to an office subject to confirmation by the Senate, the Governor shall notify the President of the Senate by May 15 of the year in which the appointment is to be made of the name of the person ~~he~~ the Governor is submitting to the General Assembly for confirmation.

(4) ~~He is~~ To be the sole official organ between the government of this State and other states, or the government of the United States.

(5) ~~He has~~ To have the custody of the great seal of the State.

(6) If ~~he be~~ the Governor is apprised by the affidavits of two responsible citizens of the State that there is imminent danger that the statute of this State forbidding prizefighting is about to be violated, ~~he~~ the Governor shall use, as far as necessary, the civil and military power of the State to prevent it, and to have the offenders arrested and bound to keep the peace.

(7) **(Repealed effective July 1, 1999)** He shall annually appoint eight members to the board of directors of the North Carolina Railroad, who shall serve for one year until

the next annual meeting of stockholders held for the purpose of electing or naming directors.

(8) In carrying out ~~his~~ ex officio duties, ~~he is authorized~~ to designate ~~his~~ the Governor's personal representative to attend meetings and to act in ~~his~~ the Governor's behalf as ~~he~~ the Governor directs.

(9) ~~He is authorized to~~ To appoint such personal staff as ~~he~~ the Governor deems necessary to carry out effectively the responsibilities of ~~his~~ the Governor's office.

(10) ~~He is hereby empowered to~~ To contract in behalf of the State with the government of the United States to the extent allowed by the laws of North Carolina for the purpose of securing the benefits available to this State under the Federal Highway Safety Act of 1966. To that end, ~~he~~ the Governor shall coordinate the activities of any and all departments and agencies of this State and its subdivisions relating thereto.

(11) Upon being furnished information from law-enforcement officers that public roads or highways or other public vehicular areas, as defined in G.S. 20-4.01, are being blocked by privately owned and operated vehicles or by any other means, thereby impeding the free flow of goods and merchandise in North Carolina, ~~he,~~ if such information warrants, ~~is authorized~~ to declare that a state of emergency exists in the affected area, and ~~is further authorized~~ to order that the Highway Patrol and/or national guard remove the offending vehicles or other causes of the blockade from the emergency area.

(12) To name and locate State government buildings, monuments, memorials, and improvements, as provided by G.S. 143B-373(1).

(13) To oversee and approve all memoranda of understanding and agreements between the State and foreign governments, as defined in G.S. 66-275(c), and international organizations. Any memoranda of understanding or agreements under this subsection to be signed on behalf of the State must first be approved by the Governor after review by the Attorney General, and after execution filed with the Secretary of State in accordance with G.S. 66-275."

Section 5. Within available appropriated funds, the Secretary of State shall provide information related to the existence of memoranda of understanding and agreements between state agencies and foreign governments obtained pursuant to this act to the Joint Committee on Governmental Operations by March 31, 2000.

Section 6. This act becomes effective July 1, 1999, and applies to memoranda and agreements executed on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law upon approval of the Governor at 1:00 p.m. on the 9th day of July, 1999.

S.B. 484 **SESSION LAW 1999-261**

AN ACT CHANGING THE METHOD OF CALCULATING THE RATIO OF PROPERTY TAX COLLECTIONS TO THE TOTAL LEVY FOR LOCAL GOVERNMENT BUDGETING PURPOSES RELATING TO THE REGISTERED MOTOR VEHICLE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-13(b)(6) reads as rewritten:

"(b) The following directions and limitations shall bind the governing board in adopting the budget ordinance:

. . .

(6) The estimated percentage of collection of property taxes shall not be greater than the percentage of the levy actually realized in cash as of June 30 during the preceding fiscal year. For purposes of the calculation under this subdivision only, the levy for the registered motor vehicle tax under Article 22C of Chapter 105 of the General Statutes shall be based on the nine-month period ending March 31 of the preceding fiscal year, and the collections realized in cash with respect to this levy shall be based on the twelve-month period ending June 30 of the preceding fiscal year."

Section 2. This act is effective when it becomes law and applies to budget ordinances adopted after July 1, 1999.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law upon approval of the Governor at 1:02 p.m. on the 9th day of July, 1999.

S.B. 956 **SESSION LAW 1999-262**

AN ACT TO MAKE IT A CLASS 2 MISDEMEANOR TO USE IN TELEPHONIC OR ELECTRONIC-MAIL COMMUNICATIONS WITH ANOTHER PERSON ANY WORDS OR LANGUAGE THREATENING THAT PERSON'S CHILD, DEPENDENT, SIBLING, OR SPOUSE, AND TO MAKE IT A CLASS 1 MISDEMEANOR TO WILLFULLY THREATEN PHYSICAL INJURY TO THE CHILD, DEPENDENT, SIBLING, OR SPOUSE OF ANOTHER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-196(a) reads as rewritten:

"(a) It shall be unlawful for any person:

(1) To use in telephonic communications any words or language of a profane, vulgar, lewd, lascivious or indecent character, nature or connotation;

(2) To use in telephonic or electronic-mail communications any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person;

(3) To telephone another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing or embarrassing any person at the called number;

(4) To make a telephone call and fail to hang up or disengage the connection with the intent to disrupt the service of another;

(5) To telephone another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct or criminal conduct of the person telephoned or of any member of his family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass;

(6) To knowingly permit any telephone under his control to be used for any purpose prohibited by this section."

Section 2. G.S. 14-277.1(a) reads as rewritten:

"(a) A person is guilty of a Class 1 misdemeanor if without lawful authority:

(1) He willfully threatens to physically injure the person or that person's child, sibling, spouse, or dependent or willfully threatens to damage the property of another;

(2) The threat is communicated to the other person, orally, in writing, or by any other means;

(3) The threat is made in a manner and under circumstances which would cause a reasonable person to believe that the threat is likely to be carried out; and

(4) The person threatened believes that the threat will be carried out."

Section 3. This act becomes effective December 1, 1999.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law upon approval of the Governor at 1:04 p.m. on the 9th day of July, 1999.

S.B. 1011 **SESSION LAW 1999-263**

AN ACT TO PROVIDE THAT AN ENHANCED CRIMINAL PENALTY SHALL BE IMPOSED ON A PERSON WHO HAS IN HIS OR HER IMMEDIATE POSSESSION OR IS WEARING A BULLET-PROOF VEST WHILE COMMITTING A FELONY.

The General Assembly of North Carolina enacts:

Section 1. Part 2 of Article 81B of Chapter 15A of the General Statutes is amended by adding a new section to read:

"*§ 15A-1340.16C. Enhanced sentence if defendant is convicted of a felony and the defendant was wearing or had in his or her immediate possession a bullet-proof vest during the commission of the felony.*

(a) If a person is convicted of a felony and the court finds that the person was wearing or had in his or her immediate possession a bullet-proof vest at the time of the felony, then the person is guilty of a felony that is one class higher than the underlying felony for which the person was convicted.

(b) This section does not apply if the evidence that the person possessed a bullet-proof vest is needed to prove an element of the underlying felony for which the person was convicted. This section does not apply to law enforcement officers."

Section 2. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law upon approval of the Governor at 1:08 p.m. on the 9th day of July, 1999.

S.B. 1055 **SESSION LAW 1999-264**

AN ACT TO PROHIBIT THE USE OF A COURT REPORTING SERVICE THAT HAS AN INTEREST WHEN A DEPOSITION IS TAKEN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 28(c) reads as rewritten:

"(c) Disqualification for interest. -- Unless the parties agree otherwise by stipulation as provided in Rule 29, no ~~No~~ deposition shall be taken before a person who is ~~a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action unless the parties agree otherwise by stipulation as provided in Rule 29.~~ any of the following:

(1) A relative, employee, or attorney of any of the parties;

(2) A relative or employee of an attorney of the parties;

(3) Financially interested in the action; or

(4) An independent contractor if the contractor or the contractor's principal is under a blanket contract for the court reporting services with an attorney of the parties, party to the action, or party having a financial interest in the action. Notwithstanding the disqualification under this rule, the party desiring to take the deposition under a stipulation shall disclose the disqualification in writing in a Rule 30(b) notice of deposition and shall inform all parties to the litigation on the record of the existence of the disqualification under this rule and of the proposed stipulation waiving the

disqualification. Any party opposing the proposed stipulation as provided in the notice of deposition shall give timely written notice of his or her opposition to all parties.

For the purposes of this rule, a blanket contract means a contract to perform court reporting services over a fixed period of time or an indefinite period of time, rather than on a case by case basis, or any other contractual arrangement which compels, guarantees, regulates, or controls the use of particular court reporting services in future cases.

Notwithstanding any other provision of law, a person is prohibited from taking a deposition under any contractual agreement that requires transmission of the original transcript without the transcript having been certified as provided in Rule 30(f) by the person before whom the deposition was taken."

Section 2. This act becomes effective October 1, 1999, and applies to depositions taken on or after October 1, 1999.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law upon approval of the Governor at 1:10 p.m. on the 9th day of July, 1999.

H.B. 143 **SESSION LAW 1999-265**

AN ACT TO INCREASE THE FINE RELATED TO UNLAWFUL PARKING IN HANDICAPPED PARKING SPACES, AND TO REQUIRE THAT SIGNS BE PLACED ON HANDICAPPED PARKING SPACES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-37.6(f) reads as rewritten:

"(f) Penalties for Violation. --

(1) A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which carries a penalty of ~~at least fifty dollars ($50.00) but not more than one hundred dollars ($100.00)~~ at least one hundred dollars ($100.00) but not more than two hundred fifty dollars ($250.00) and whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found to be parked in a properly designated handicapped parking space in violation of the provisions of this section, it shall be prima facie evidence in any court in the State of North Carolina that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division. No evidence tendered or presented under this authorization shall be admissible or competent in any respect in any court or tribunal except in cases concerned solely with a violation of this section.

(2) A violation of G.S. 20-37.6(e)(4) is an infraction which carries a penalty of at least ~~fifty dollars ($50.00)~~ one hundred dollars ($100.00) but not more than ~~one hundred dollars ($100.00)~~ two hundred fifty dollars ($250.00) and whenever evidence shall be presented in any court of the fact that a nonconforming sign is being used it shall be prima facie evidence in any court in the State of North Carolina that the person, firm, or corporation with ownership of the property where the nonconforming sign is located is responsible for violation of this section. Building inspectors and others responsible for North Carolina State Building Code violations specified in G.S. 143-138(h) where such signs are required by the Handicapped Section of the North Carolina State Building Code, may cause a citation to be issued for this violation and may also initiate any appropriate action or proceeding to correct such violation.

(3) A law-enforcement officer, including a company police officer commissioned by the Attorney General under Chapter 74E, may cause a vehicle parked in violation of this section to be towed. The officer is a legal possessor as provided in G.S. 20-161(d)(2). The officer shall not be held to answer in any civil or criminal action to any owner, lienholder or other person legally entitled to the possession of any motor vehicle removed from a space pursuant to this section, except where the motor vehicle is willfully, maliciously, or negligently damaged in the removal from the space to a place of storage.

(4) Notwithstanding any other provision of the General Statutes, the provisions of this section relative to handicapped parking shall be enforced by State, county, city and other municipal authorities in their respective jurisdictions whether on public or private property in the same manner as is used to enforce other parking laws and ordinances by said agencies."

Section 2. This act becomes effective January 1, 2000.

In the General Assembly read three times and ratified this the 29th day of June, 1999.

Became law upon approval of the Governor at 1:12 p.m. on the 9th day of July, 1999.

S.B. 526 **SESSION LAW 1999-266**

AN ACT TO PROVIDE FOR THE MODIFICATION AND TERMINATION OF IRREVOCABLE TRUSTS.

The General Assembly of North Carolina enacts:

Section 1. Article 11 of Chapter 36A of the General Statutes is repealed.

Section 2. Chapter 36A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 11A.

"Modification and Termination of Irrevocable Trusts.

"§ *36A-125.1. Definitions.*

As used in this section:

(1) 'Beneficiary' means a person who has a present or future interest, vested or contingent, in a trust, including any such person who is not in esse or cannot be determined until the occurrence of a future event.

(2) 'Person' means an individual person, a corporation, an organization, or other legal entity.

(3) 'Trust' means an express noncharitable trust. A trust is noncharitable if it is neither a wholly charitable trust nor a charitable split-interest trust subject to the provisions of Article 4 or 4A of Chapter 36A of the General Statutes. The term 'trust' does not include constructive trusts, resulting trusts, conservatorships, personal representatives, trust accounts as defined in G.S. 53-146.2, 54-109.57, and 54B-130, trust funds subject to G.S. 90-210.61, custodial arrangements pursuant to G.S. 33A-1 through G.S. 33A-24 and G.S. 33B-1 through G.S. 33B-22, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, or any arrangement under which a person is nominee or escrowee for another.

(4) 'Sole beneficiary' means a beneficiary of a trust for which the settlor does not manifest an intention to give a beneficial interest to anyone else.

(5) 'Sui juris' means a person who is in esse and not a minor or otherwise legally incapacitated. With regard to a beneficiary, 'sui juris' also means that such beneficiary is ascertained and that the trustee knows the identity of the beneficiary.

(6) 'Trustee' means the trustee or trustees acting under an irrevocable trust.

"§ *36A-125.2. Modification or termination where settlor is sole beneficiary.*

If a settlor is sui juris and the sole beneficiary of an irrevocable trust, the settlor may compel the modification or termination of the trust without the approval of the court even though the purposes for which the trust was created have not been accomplished.

"§ *36A-125.3. Modification or termination by consent of settlor and beneficiaries.*

(a) If the settlor and all beneficiaries of an irrevocable trust are sui juris and consent, they may compel the modification or termination of the trust without the approval of the court even though the purposes for which the trust was created have not been accomplished.

(b) If any beneficiary does not consent to the modification or termination of the trust or is not sui juris, the other beneficiaries may institute a proceeding before the superior court to compel a modification or partial termination of the trust. The court may, with the consent of the settlor, allow such a modification or partial termination upon a finding that such action would not substantially impair the interests of the beneficiaries who do not consent or who are not sui juris.

"*§ 36A-125.4. Modification or termination by consent of beneficiaries.*

(a) Except as provided in subsection (b) of this section, if all beneficiaries of an irrevocable trust consent, they may compel modification or termination of the trust in a proceeding before the superior court.

(b) Where the beneficiaries of an irrevocable trust seek to compel a termination of the trust or modify it in a manner that affects its continuance according to its terms, and if the continuance of the trust is necessary to carry out a material purpose of the trust, the trust cannot be modified or terminated unless the court in its discretion determines that the reason for modifying or terminating the trust under the circumstances substantially outweighs the interest in accomplishing a material purpose of the trust.

"*§ 36A-125.5. Provisions relating to consent of beneficiaries.*

For purposes of this Article:

(1) The consent of a beneficiary who is not sui juris may be given in proceedings before the court by a guardian ad litem appointed for that beneficiary if the guardian ad litem finds that it would be appropriate to do so. The guardian ad litem may base a decision to consent to modification or termination of a trust upon a finding that living members of the beneficiary's family would generally benefit from such action.

(2) In determining the class of beneficiaries whose consent is necessary to modify or terminate a trust, the presumption of fertility is rebuttable.

(3) If the trust provides for the disposition of property to a class of persons described only as 'heirs' or 'next of kin' of any person or uses other words that describe the class of all persons who would take under the rules of intestacy, the court may limit the class of beneficiaries whose consent is needed to compel the modification or termination of the trust to the beneficiaries who are reasonably likely to take under the circumstances.

"*§ 36A-125.6. Modification or termination of a small trust.*

(a) In a proceeding before the superior court, the court in its discretion may modify or terminate an irrevocable trust if the court determines that the fair market value of the assets held in trust is so low that the continuance of the trust pursuant to its terms in relation to the cost of its administration would defeat or substantially impair the accomplishment of the purposes of the trust.

(b) Notwithstanding the provisions of subsection (a) of this section, if at any time the trustee of an irrevocable trust determines in good faith that the fair market value of the assets held in trust is fifty thousand dollars ($50,000) or less, and the continuance of the trust pursuant to its terms in relation to the cost of its administration would defeat or substantially impair the accomplishment of the purposes of the trust, the trustee, without approval of the court, may in its discretion terminate the trust and distribute the trust property. The trust property, including principal and undistributed income, shall be paid, in a manner that conforms as nearly as possible to the intention of the settlor as determined by the trustee from the trust instrument, to any one or more of the beneficiaries to whom the income could be paid, or if there is no beneficiary to whom the income could be paid, to any one or more of the beneficiaries. The trustee may enter into an agreement or make such other provisions that the trustee deems necessary or appropriate to protect the interests of the beneficiaries and to carry out the intent and purpose of the trust. The provisions of this subsection shall not apply where the instrument creating the trust, by specific reference to this section, or to former G.S. 36A-125, provides that it shall not apply.

(c) The trustee shall not be liable for such termination and distribution, notwithstanding the existence or potential existence of other beneficiaries who are not sui juris. Any beneficiary receiving a distribution from a trust terminated under this section shall incur no liability and shall not be required to account to anyone for such distribution.

"§ 36A-125.7. Modification or termination because of changed circumstances.

(a) In a proceeding before the superior court, the court in its discretion may modify or terminate an irrevocable trust:

(1) If the purpose of the trust has been fulfilled or has become illegal or impossible of fulfillment; or

(2) If, owing to circumstances not known to the settlor and not anticipated by the settlor, the continuation of the trust under its terms would defeat or substantially impair the accomplishment of the purposes of the trust.

(b) In exercising its discretion under subsection (a) of this section, the court may order the trustee to do acts that are not authorized or are prohibited by the trust instrument if necessary to carry out the purposes of the trust.

"§ 36A-125.8. Inalienability of the beneficiary's interest.

The court, in exercising its discretion to modify or terminate an irrevocable trust pursuant to the provisions of G.S. 36A-125.4, 36A-125.6(a), and 36A-125.7, and the trustee, in exercising its discretion to terminate a trust pursuant to G.S. 36A-125.6(b), shall consider provisions making the interest of a beneficiary inalienable, including those described in G.S. 36A-115(b), but the court or trustee is not precluded from the exercise of that discretion solely because of such provisions.

"§ *36A-125.9. Tax consequences.*

The court, in exercising its discretion to modify or terminate an irrevocable trust under the provisions of this Article, and the trustee, in exercising its discretion to terminate a trust pursuant to G.S. 36A-125.6(b), shall consider the tax consequences of such modification or termination, if any, to the trust and the beneficiaries of the trust.

"§ *36A-125.10. Distribution to minors or incompetents.* <*font*=*1.*

If any trust property becomes distributable to a minor or incompetent under this Article it may be distributed:

(1) To the guardian of the estate or general guardian of such beneficiary;

(2) In accordance with the North Carolina Uniform Transfer to Minors Act, Chapter 33A of the General Statutes; or

(3) In accordance with the North Carolina Custodial Trust Act, Chapter 33B of the General Statutes.

"§ *36A-125.11. Procedure.*

A proceeding under this Article may be brought under the Uniform Declaratory Judgment Act, Article 26 of Chapter 1 of the General Statutes, the provisions of which shall apply to that proceeding to the extent not inconsistent with this Article.

"§ *36A-125.12. Exclusiveness of remedy.*

This Article does not include or abridge any other rights or proceedings existing under any other statute or otherwise provided by law to modify, terminate, reform, or rescind an irrevocable trust."

Section 3. This act becomes effective January 1, 2000, and applies to all trusts created before or after that date, except that G.S. 36A-125.6(b) shall not apply to trusts created before October 1, 1991, if the trust instrument contains spendthrift or similar protective provisions, including provisions described in G.S. 36A-115(b)(3).

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 1:12 p.m. on the 9th day of July, 1999.

S.B. 1009 **SESSION LAW 1999-267**

AN ACT TO PROMOTE THE FREE FLOW OF INFORMATION TO THE PEOPLE OF NORTH CAROLINA BY CODIFYING THE JOURNALISTS' TESTIMONIAL PRIVILEGE.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 8 of the General Statutes is amended by adding a new section to read:

"§ *8-53.9. Persons, companies, or other entities engaged in gathering or dissemination of news.*

(a) Definitions. The following definitions apply in this section:

(1) Journalist. -- Any person, company, or entity, or the employees, independent contractors, or agents of that person, company, or entity, engaged in the business of

gathering, compiling, writing, editing, photographing, recording, or processing information for dissemination via any news medium.

(2) Legal proceeding. -- Any grand jury proceeding or grand jury investigation; any criminal prosecution, civil suit, or related proceeding in any court; and any judicial or quasi-judicial proceeding before any administrative, legislative, or regulatory board, agency, or tribunal.

(3) News medium. -- Any entity regularly engaged in the business of publication or distribution of news via print, broadcast, or other electronic means accessible to the general public.

(b) A journalist has a qualified privilege against disclosure in any legal proceeding of any confidential or nonconfidential information, document, or item obtained or prepared while acting as a journalist.

(c) In order to overcome the qualified privilege provided by subsection (b) of this section, any person seeking to compel a journalist to testify or produce information must establish by the greater weight of the evidence that the testimony or production sought:

(1) Is relevant and material to the proper administration of the legal proceeding for which the testimony or production is sought;

(2) Cannot be obtained from alternate sources; and

(3) Is essential to the maintenance of a claim or defense of the person on whose behalf the testimony or production is sought.

Any order to compel any testimony or production as to which the qualified privilege has been asserted shall be issued only after notice to the journalist and a hearing and shall include clear and specific findings as to the showing made by the person seeking the testimony or production.

(d) Notwithstanding subsections (b) and (c) of this section, a journalist has no privilege against disclosure of any information, document, or item obtained as the result of the journalist's eyewitness observations of criminal or tortious conduct, including any physical evidence or visual or audio recording of the observed conduct."

Section 2. This act becomes effective October 1, 1999, and applies to information, documents, or items obtained or prepared while acting as a journalist on or after that date.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 1:15 p.m. on the 9th day of July, 1999.

S.B. 1127 **SESSION LAW 1999-268**

AN ACT TO CODIFY THE JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, INCLUDING THE CODIFICATION OF

NAME CHANGES OF CERTAIN LANDS PREVIOUSLY ACCEPTED INTO THE STATE NATURE AND HISTORIC PRESERVE; TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE; TO CODIFY THESE REMOVALS; TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM; AND TO MAKE A TECHNICAL CORRECTION TO THE STATE CONSTITUTION TO ALLOW THE DEDICATION AND ACCEPTANCE OF PROPERTY INTO THE STATE NATURE AND HISTORIC PRESERVE BY THE GENERAL ASSEMBLY BY A BILL RATHER THAN BY A JOINT RESOLUTION.

The General Assembly of North Carolina enacts:

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; Now, therefore,

Section 1. The portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie either within the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501, or within the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719, are removed from the State Nature and Historic Preserve pursuant to Article XIV, Section 5 of the North Carolina Constitution.

Section 2. G.S. 143-260.10 reads as rewritten:

"§ *143-260.10. Components of State Nature and Historic Preserve.*

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~April 4, 1989:~~ April 6, 1999: Baldhead Island State Natural Area, Bay Tree Lake State Park, Boones Cave State Park, Bushy Lake State Natural Area, Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, Duke Power State Park, ~~Eno River State Park,~~ Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Hammocks Beach State Park, ~~Hanging Rock State Park,~~ Hemlock Bluffs State Natural Area, Jockey's Ridge State Park, Jones Lake State Park, Lake James State Park, Lake

Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, ~~Merchant's~~ Merchants Millpond State Park, Mitchells Millpond State Natural ~~Area north of S.R. 2224,~~ Area, Mount Jefferson ~~State Park,~~ State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, ~~South Mountains State Park,~~ Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled 'Property of The State of North Carolina William B. Umstead State Park', dated January 14, ~~1977, and as~~ 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

~~(3) All lands within the boundaries of Jockey's Ridge State Park as of April 4, 1989, with the exception of the following tract: That certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, more particularly described as follows: Beginning at an iron rod which is located North 39°07'08" West 74.96 feet from an iron pipe having a NC Coordinate value of X-2996057.363 and Y-823796.892, said iron rod also being located in a common property line between the State of North Carolina and R. M. Ritchie, et al.; thence running from said beginning point South 39°07'08" East 10 feet to a point; thence North 49°10'51" East 47.98 feet to a point in the right-of-way of U.S. 158 Bypass; thence northwesterly along the aforementioned right-of-way 10 feet to an iron rod; thence South 49°10'51" West 47.98 feet to the point and place of beginning and containing 479.80 square feet more or less, and as drawn out by the Design and Development Section of the Division of Parks and Recreation on a map dated November 8, 1988.~~

(4) All lands within the boundaries of Morrow Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a

map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.

~~(5) All lands within the boundaries of Pettigrew State Park as of April 4, 1989, with the exception of the following tract: The portion of that certain tract or parcel of land at Pettigrew State Park in Washington County, Scuppernong Township, described in Deed Book 257, page 479, lying south of S.R. 1183 or the extension thereof along its present right-of-way.~~

(6) All land within the boundaries of ~~Crowder's~~ Crowders Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at ~~Crowder's~~ Crowders Mountain State Park in Gaston County, ~~Crowder's~~ Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated ~~7/22/88.~~ July 22, 1988 and filed in the State Property Office.

(7) All lands owned in fee simple by the State at the New River Scenic River as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54 acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated ~~9/21/79.~~ September 21, 1979, recorded in Plat Book 4, Page 94, and filed in the State Property Office.

(8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows ~~Gap Road~~ Road, as shown on the National Park Service Land Status Map 33 dated ~~3/24/81,~~ March 24, 1981 and filed in the State Property Office, containing approximately 72 acres. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~March 6, 1979:~~ January 1, 1999: Alamance ~~Battleground Historic Site,~~ Battleground, Charles B. Aycock Birthplace, Historic ~~Bath Historic Site,~~ Bath, Bennett Place, Bentonville ~~Battleground~~

~~Historic Site,~~ Battleground, Brunswick ~~Town Historic Site,~~ Town/Fort Anderson, ~~Governor Richard Caswell Memorial/C.S.S. Neuse Historic Site,~~ C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke ~~Homestead Historic Site,~~ Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the ~~Horseshoe Historic Site, James Iredell House Historic Site,~~ Horseshoe, North Carolina Transportation Museum, ~~President~~ James K. Polk ~~Memorial Historic Site,~~ Memorial, Reed Gold Mine, Somerset Place, ~~Stagville Preservation Center Historic Site,~~ Stagville, State ~~Capitol Historic Site,~~ Capitol, Town Creek Indian ~~Mound Historic Site,~~ Mound, Tryon Palace Historic ~~Site, Governor~~ Sites & Gardens, Zebulon B. Vance ~~Birthplace Historic Site,~~ Birthplace, and Thomas Wolfe ~~Memorial Historic Site.~~ Memorial.

(10) All lands and waters within the boundaries of Gorges State Park as shown on the map entitled 'Boundaries of Gorges State Park' prepared by the Division of Parks and Recreation, dated May 27, 1999, and filed in the State Property Office, which lands and waters are a portion of the lands and waters acquired by the State of North Carolina on April 29, 1999, the purchase of which was approved by the Council of State at its meeting on March 2, 1999.

(11) All lands and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626, Page 854, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled 'Sketch Showing a Portion of the Property of State of North Carolina, North Carolina Parks and Recreation, Durham County', for TIP U-2102, Project 8.1351302, parcel 155, dated June 8, 1999 and filed in the State Property Office; and the portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1945, Page 773, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled 'Sketch Showing Proposed Right of Way, Property of State of North Carolina (Formerly Association for the Preservation of the Eno), Durham County' for TIP U-2102, Project 8.1351302, parcels 159 and 163, dated June 1, 1999 and filed in the State Property Office. These two tracts excluded from the

State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.

(12) All lands and waters located within the boundaries of Hanging Rock State Park as of April 6, 1999, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, 'J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.', by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(13) All lands and waters located within the boundaries of South Mountains State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled 'Survey for State of North Carolina', dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled 'Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road' prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North

Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land."

Section 3. Section 5 of Article XIV of the Constitution of North Carolina reads as rewritten:

"**Sec. 5. Conservation of natural resources.**

It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by ~~resolution adopted~~ a law enacted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the 'State Nature and Historic Preserve,' and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes."

Section 4. The amendment set out in Section 3 of this act shall be submitted to the qualified voters of the State at the next election at which another amendment to the Constitution is submitted to the voters, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment making a technical correction to allow dedication and acceptance of property into the State Nature and Historic Preserve by the General Assembly by enactment of a bill rather than a joint resolution."

Section 5. If a majority of the votes cast on the question are in favor of the amendment set out in Section 3 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The amendment becomes effective upon this certification. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

Section 6. G.S. 143-260.8 reads as rewritten:

"§ *143-260.8. Procedures.*

(a) Within the meaning of this section:

(1) 'Local governing body' means, as the case may be, the board of commissioners of a county, the city council (or equivalent legislative body) of a city, or the board of aldermen or board of commissioners (or equivalent legislative body) of a town.

(2) 'Local government' means a county, city or town.

(3) 'Properties' include any properties or interest in properties acquired by purchase or gift.

(b) The Council of State may petition the General Assembly to ~~adopt a resolution~~ enact a law pursuant to Article XIV, Sec. 5 of the North Carolina Constitution, accepting any properties owned by the State of North Carolina (or proposed for gift to or purchase by the State) and designated in ~~said~~ the petition for inclusion in the State Nature and Historic Preserve.

(c) The governing body of any local government, or any combination of two or more such bodies may petition the General Assembly to ~~adopt a resolution~~ enact a law pursuant to Article XIV, Sec. 5 of the North Carolina Constitution, accepting any properties owned by ~~said~~ the local government (or proposed for gift to or purchase by ~~said~~ the local government) and designated in ~~said~~ the petition for inclusion in the State Nature and Historic Preserve.

(d) The petition referred to in subsections (a) and (b) of this section shall identify the properties sought to be included in the Preserve. The General Assembly may then ~~by joint resolution~~ enact a law to accept the designated properties in the Preserve and ~~adoption of said resolution~~ enactment of the law by the General Assembly shall constitute the special dedication and acceptance of the designated properties in the State Nature and Historic Preserve contemplated by Article XIV, Sec. 5 of the North Carolina Constitution.

(e) In order to provide accessible information to the public concerning the State Nature and Historic Preserve, every ~~resolution~~ law accepting properties in the Preserve shall be codified in the General Statutes. A certified copy of every ~~resolution~~ law accepting properties in the Preserve shall be transmitted by the Secretary of State to the register of deeds in each county wherein ~~said~~ these properties, or any part of them, are located, for filing and indexing in the grantor index.

(f) This Article shall constitute an exclusive procedure only for placing properties in the State Nature and Historic Preserve, and shall not preclude the dedication of properties by other means for purposes identical or similar to those enumerated by Article XIV, Sec. 5 of the North Carolina Constitution.

(g) It is the intent of this Article to complement any applicable provisions of federal and State law and regulations relating to dedication or acceptance of properties for purposes similar to those enumerated by Article XIV, Sec. 5 of the North Carolina Constitution. The Council of State is hereby authorized to adopt rules and regulations to implement the provisions of this Article, including rules and regulations consistent with this Article to comport with

applicable federal and State law and regulations. A copy of this Article, and of any ~~such rules or regulations~~ rules affecting properties owned by local governments shall be filed by the Council of State with the chairman of the local governing body of every county, city and town within 30 days after ~~ratification or adoption as the case may be.~~ ratification."

Section 7. Sections 1 through 5 and Section 7 of this act are effective when this act becomes law. Section 6 of this act becomes effective when the amendment set out in Section 3 of this act becomes effective.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 1:17 p.m. on the 9th day of July, 1999.

H.B. 290 **SESSION LAW 1999-269**

AN ACT TO AMEND THE CRIME VICTIMS' COMPENSATION ACT BY INCREASING THE MEMBERSHIP OF THE CRIME VICTIMS' COMPENSATION COMMISSION, BY INCREASING THE SIZE OF INITIAL CLAIMS THAT MAY BE AWARDED BY THE DIRECTOR OF THE COMMISSION, AND BY PROVIDING THE COMMISSION WITH THE DISCRETION TO PAY CERTAIN CLAIMS PREVIOUSLY DENIED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15B-3(a) reads as rewritten:

"(a) There is established the Crime Victims Compensation Commission of the Department of Crime Control and Public Safety, consisting of ~~five~~ seven members as follows:

(1) One member to be appointed by the Governor;

(2) One member to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate under G.S. 120-121;

(3) One member to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives under G.S. 120-121;

(4) The Attorney General or ~~his~~ the Attorney General's designee; ~~and~~

(5) The Secretary of the Department of Crime Control and Public Safety or ~~his designee.~~ the Secretary's designee; and

(6) Two members to be appointed by the Secretary of the Department of Crime Control and Public Safety."

Section 2. G.S. 15B-10 reads as rewritten:

"§ *15B-10. Awarding claims.*

(a) The Director shall decide the award of compensation for an initial claim or follow-up claim when the claim does not exceed ~~five thousand dollars ($5,000)~~ seven thousand five hundred dollars

($7,500) and does not include future economic loss. The Director shall report all awards under this subsection to the Commission.

(b) The Director shall recommend the award of compensation for an initial claim or follow-up claim when the claim exceeds ~~five thousand dollars ($5,000)~~ seven thousand five hundred dollars ($7,500) or involves future economic loss. The Commission shall decide the award of compensation for a claim based on a review of written evidence submitted to the Commission by the Director.

(c) In reporting a decision under subsection (a) or recommending a decision under subsection (b), the Director shall submit to the Commission documentation to establish the economic loss of the claimant by substantial evidence.

(d) The Director shall send each claimant a written statement of a decision made under subsection (a) or (b) that gives the reasons for the decision. A claimant who is dissatisfied with a decision may commence a contested case under Article 3 of Chapter 150B of the General Statutes."

Section 3. G.S. 15B-11(a) reads as rewritten:

"*§ 15B-11. Grounds for denial of claim or reduction of award.*

(a) An award of compensation shall be denied if:

(1) The claimant fails to file an application for an award within two years after the date of the criminally injurious conduct that caused the injury or death for which the claimant seeks the award;

(2) The economic loss is incurred after one year from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award, except in the case where the victim for whom compensation is sought was 10 years old or younger at the time the injury occurred. In that case an award of compensation will be denied if the economic loss is incurred after two years from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award;

(3) The criminally injurious conduct was not reported to a law enforcement officer or agency within 72 hours of its occurrence, and there was no good cause for the delay;

(4) The award would benefit the offender or the offender's accomplice, unless a determination is made that the interests of justice require that an award be approved in a particular case;

(5) The criminally injurious conduct occurred while the victim was confined in any State, county, or city prison, correctional, youth services, or juvenile facility, or local confinement facility, or half-way house, group home, or similar facility; or

(6) The victim was participating in a felony ~~or a nontraffic misdemeanor~~ at or about the time that the victim's injury occurred.

(b) A claim may be denied ~~and~~ or an award of compensation may be reduced ~~upon a finding of contributory misconduct by the claimant or a victim through whom the claimant claims.~~ if:

(1) The victim was participating in a nontraffic misdemeanor at or about the time that the victim's injury occurred; or

(2) The claimant or a victim through whom the claimant claims engaged in contributory misconduct.

The Commission shall use its discretion in determining whether to deny a claim under this subsection. In exercising its discretion, the Commission may consider whether any proximate cause exists between the injury and the misdemeanor or contributory misconduct.

(c) A claim may be denied, an award of compensation may be reduced, and a claim that has already been decided may be reconsidered upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies with regard to the criminally injurious conduct that is the basis for the award.

(c1) A claim may be denied upon a finding that the claimant has been convicted of any felony classified as a Class A, B1, B2, C, D, or E felony under the laws of the State of North Carolina and that such felony was committed within 3 years of the time the victim's injury occurred.

(d) After reaching a decision to approve an award of compensation, but before notifying the claimant, the Director shall require the claimant to submit current information as to collateral sources on forms prescribed by the Commission.

An award that has been approved shall nevertheless be denied or reduced to the extent that the economic loss upon which the claim is based is or will be recouped from a collateral source. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source. If it is thereafter determined that the claimant will not receive all or part of the expected recoupment, the claim shall be reopened and an award shall be approved in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source, subject to the limitations set forth in subsections (f) and (g). The existence of a collateral source that would pay expenses directly related to a funeral, cremation, and burial, including transportation of a body, shall not constitute grounds for the denial or reduction of an award of compensation.

(e) Repealed by Session Laws 1998-212, s. 19.4(m).

(f) Compensation for replacement services loss, dependent's economic loss, and dependent's replacement services loss may not exceed two hundred dollars ($200.00) per week. Compensation for work loss and household support loss may not exceed three hundred dollars ($300.00) per week.

(g) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to, or the death of, that

victim may not exceed thirty thousand dollars ($30,000) in the aggregate in addition to allowable funeral, cremation, and burial expenses.

(h) The right to reconsider or reopen a claim does not affect the finality of its decision for the purpose of judicial review."

Section 4. This act becomes effective July 1, 1999. Section 2 of this act applies to all claims filed on or after July 1, 1999. Section 3 of this act applies to claims filed or pending on or after July 1, 1999. For claims denied prior to that date because the victim was participating in a nontraffic misdemeanor at or about the time that the victim's injury occurred, the Commission shall reconsider denial of the claim upon the written request of the claimant, provided that the claimant's written request is received by the Commission within two years of the date of the criminally injurious conduct that caused the injury or death for which the claimant seeks the reward.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 1:18 p.m. on the 9th day of July, 1999.

S.B. 1003 **SESSION LAW 1999-270**

AN ACT TO AMEND THE STATUTES REGULATING THE ABILITY OF GUARDIANS TO MAKE GIFTS FROM INCOMPETENT WARDS' ESTATES UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 35A-1335 reads as rewritten:

"*§ 35A-1335. Gifts authorized with approval of judge of superior court.*

With the approval of the resident judge of the superior court of the district in which the guardian ~~he~~ was appointed, upon a duly verified petition the guardian ~~or trustee~~ of a person judicially declared to be incompetent may, from the income of the incompetent, make gifts to the State of North Carolina, its agencies, counties or municipalities, or to the United States or its agencies or instrumentalities, or for religious, charitable, literary, scientific, historical, medical or educational ~~purposes.~~ purposes, or to individuals including the guardian. References in this Article to the 'guardian' include any Trustee appointed by the court under prior law as fiduciary for the incompetent ward's estate."

Section 2. G.S. 35A-1336 reads as rewritten:

"*§ 35A-1336. Prerequisites to approval by ~~judge.~~ judge of gifts for governmental or charitable purposes.*

The judge shall not approve ~~such~~ gifts from income for governmental or charitable purposes unless it appears to ~~his~~ the judge's satisfaction that all of the following apply:

(1) After ~~the~~ making ~~of such~~ the gifts and the payment of federal and State income taxes, the remaining income of the

incompetent will be reasonable and adequate to provide for the support, maintenance, comfort and welfare of the incompetent and those legally entitled to support from the incompetent in order to maintain the incompetent and ~~such~~ those dependents in the manner to which the incompetent and ~~such~~ those dependents are accustomed and in keeping with their station in ~~life (and in no event less than twice the average, for the five calendar years preceding the calendar year of such gifts, of expenditures for the incompetent's support, maintenance, comfort and welfare);~~ life.

(2) Each donee is a donee to which a competent donor could make a gift, without limit as to amount, without incurring federal or State gift tax ~~liability;~~ liability.

(3) Each donee is a donee qualified to receive tax deductible gifts under federal and State income tax ~~laws;~~ laws.

(4) The aggregate of ~~such~~ the gifts does not exceed the percentage of income fixed by federal law as the maximum deduction allowable for ~~such~~ the gifts in computing federal income tax liability."

Section 3. Chapter 35A of the General Statutes is amended by adding a new section to read:

"*§ 35A-1336.1. Prerequisites to approval by judge of gifts to individuals.*

The judge shall not approve gifts from income to individuals unless it appears to the judge's satisfaction that both the following requirements are met:

(1) After making the gifts and paying federal and State income taxes, the remaining income of the incompetent will be reasonable and adequate to provide for the support, maintenance, comfort, and welfare of the incompetent and those legally entitled to support from the incompetent in order to maintain the incompetent and those dependents in the manner to which the incompetent and those dependents are accustomed and in keeping with their station in life;

(2) The judge determines that either:

a. The incompetent, prior to being declared incompetent, executed a paper-writing with the formalities required by the laws of North Carolina for the execution of a valid will, including a paper-writing naming as beneficiary a revocable trust created by the incompetent, and each donee is entitled to one or more specific legacies, bequests, devises, or distributions of specific amounts of money, income, or property under the paper-writing or the revocable trust or both or is a residuary legatee, devisee, or beneficiary designated in the paper-writing or revocable trust or both; or

b. That so far as is known the incompetent has not, prior to being declared incompetent, executed a will which could be probated upon the death of the incompetent, and each donee is a person who would share in the incompetent's

estate, if the incompetent died contemporaneously with the signing of the order of the approval of the gifts; or

c. The donee is the spouse, parent, descendent of the incompetent, or descendant of the incompetent's parent, and the amount of the gift does not exceed the federal annual gift tax exclusion.

The judge may order that the gifts be made in cash or in specific assets and may order that the gifts be made outright, in trust, under the North Carolina Uniform Transfers to Minors Act, under the North Carolina Uniform Custodial Trust Act, or otherwise. The judge may also order that the gifts be treated as an advancement of some or all of the amount the donee would otherwise receive at the incompetent's death."

Section 4. G.S. 35A-1340 reads as rewritten:

"*§ 35A-1340. Gifts authorized with approval of judge of superior court.*

With the approval of the resident judge of the superior court of the district in which the guardian ~~or trustee~~ was appointed upon a duly verified petition, the guardian ~~or trustee~~ of a person judicially declared to be incompetent may, from the principal of the incompetent's estate, make gifts to the State of North Carolina, its agencies, counties or municipalities, or the United States or its agencies or instrumentalities, or for religious, charitable, literary, scientific, historical, medical or educational ~~purposes.~~ purposes, or to individuals including the guardian. The incompetent's estate shall consist of all assets owned by the incompetent, including nonprobate assets. For purposes of this Article, nonprobate assets are those which would not be distributable in accordance with the incompetent's valid probated will or the provisions of Chapter 29 at the incompetent's death. The incompetent's nonprobate estate would include nonprobate assets only. References in this Article to the 'guardian' include any Trustee appointed by the court under prior law as fiduciary for the incompetent ward's estate."

Section 5. G.S. 35A-1341 reads as rewritten:

"*§ 35A-1341. Prerequisites to approval by ~~judge.~~ judge of gifts for governmental or charitable purposes.*

The judge shall not approve ~~such~~ any gifts from principal for governmental or charitable purposes unless it appears to ~~his~~ the judge's satisfaction ~~that:~~ all of the following requirements are met:

(1) The making of ~~such~~ the gifts will not leave the incompetent's remaining principal estate insufficient to provide reasonable and adequate income for the support, maintenance, comfort and welfare of the incompetent and those legally entitled to support from the incompetent in order to maintain the incompetent and ~~such~~ these dependents in the manner to which the incompetent and ~~such~~ those dependents are accustomed and in keeping with their station in ~~life;~~ life.

(2) Each donee is a donee to which a competent donor could make a gift, without limit as to amount, without incurring federal or State gift tax ~~liability;~~ liability.

(3) Each donee is a donee qualified to receive tax deductible gifts under federal and State income tax ~~laws;~~ laws.

(4) The making of ~~such~~ the gifts will not jeopardize the rights of any creditor of the ~~incompetent; and~~ incompetent.

(5) It is improbable that the incompetent will recover competency during his or her ~~lifetime;~~ lifetime.

(5a) Sufficient credible evidence is presented to the court that the proposed gift is of a nature which the incompetent would have approved prior to being declared incompetent.

(6) Either a. or b. applies:

a. All of the following apply:

1. The incompetent, prior to being declared incompetent, executed a ~~paper-writing,~~ paper-writing with the formalities required by the laws of North Carolina for the execution of a valid ~~will;~~ will,
including a paper-writing naming as beneficiary a revocable trust created by the incompetent.
2. Specific legacies, ~~bequests or devises~~ bequests, devises, or nondiscretionary distributions of specific amounts of money, income or property included in ~~such~~ the paper-writing or revocable trust or both, will not be jeopardized by making ~~such gifts;~~ the gifts.
3. All residuary ~~legatees and~~ legatees, devisees and beneficiaries designated in ~~such~~ the ~~paper-writing,~~ paper-writing or revocable trust or both, who would take under the ~~paper-writing~~ paper-writing or revocable trust or both, if the incompetent died contemporaneously with the signing of the order of approval of ~~such~~ the gifts and ~~such paper-writing~~ the paper-writing was probated as the incompetent's will and the spouse, if any, of ~~such~~ the incompetent have been given at least 10 days' written notice that approval for ~~such~~ the gifts will be sought and that objection may be filed with the clerk of superior court of the county in which the guardian ~~or trustee~~ was appointed, within the 10-day ~~period;~~ period.

b. Both of the following apply:

1. That so far as is known the incompetent has not prior to being declared incompetent, executed a will which could be probated upon the death of the incompetent; and
2. All persons who would share in the incompetent's intestate estate, if the incompetent died contemporaneously with the signing of the order of

approval, have been given at least 10 days' written notice that approval for ~~such~~ the gifts will be sought and that objection may be filed with the clerk of the superior court, of the county in which the guardian ~~or trustee~~ was appointed, within the 10-day period.

(7) If the gift for which approval is sought is of a nonprobate asset, all persons who would share in that nonprobate asset if the incompetent died contemporaneously with the signing of the order of approval have been given at least 10 days' written notice that approval for the gifts will be sought and that objection may be filed with the clerk of superior court of the county in which the guardian was appointed within the 10-day period. This notice requirement shall be in addition to the notice requirements contained in G.S. 35A-1341(6)a.3. and (6)b.2."

Section 6. Chapter 35A of the General Statutes is amended by adding a new section to read:

"*§ 35A-1341.1. Prerequisites to approval by judge of gifts to individuals.*

The judge shall not approve gifts from principal to individuals unless it appears to the judge's satisfaction that all of the following requirements have been met:

(1) Making the gifts will not leave the incompetent's remaining principal estate insufficient to provide reasonable and adequate income for the support, maintenance, comfort, and welfare of the incompetent in order to maintain the incompetent and any dependents legally entitled to support from the incompetent in the manner to which the incompetent and those dependents are accustomed and in keeping with their station in life.

(2) The making of the gifts will not jeopardize the rights of any existing creditor of the incompetent.

(3) It is improbable that the incompetent will recover competency during his or her lifetime.

(4) The judge determines that either a., b., c., or d. applies.

a. All of the following apply:

1. The incompetent, prior to being declared incompetent, executed a paper-writing with the formalities required by the laws of North Carolina for the execution of a valid will, including a paper-writing naming as beneficiary a revocable trust created by the incompetent.

2. Each donee is entitled to one or more specific legacies, bequests, devises, or distributions of specific amounts of money, income, or property under either the paper-writing or revocable trust or both or is a residuary legatee, devisee, or beneficiary designated in the paper-writing or revocable trust or both.

3. The making of the gifts will not jeopardize any specific legacy, bequest, devise, or distribution of specific amounts of money, income, or property.

b. That so far as is known the incompetent has not, prior to being declared incompetent, executed a will which could be probated upon the death of the incompetent, and each donee is a person who would share in the incompetent's intestate estate, if the incompetent died contemporaneously with the signing of the order of approval of the gifts.

c. The donee is a person who would share in the incompetent's nonprobate estate, if the incompetent died contemporaneously with the signing of the order of approval.

d. The donee is the spouse, parent, descendant of the incompetent, or descendant of the incompetent's parent, and the amount of the gift does not exceed the federal annual gift tax exclusion.

(5) If the incompetent, prior to being declared incompetent, executed a paper-writing with the formalities required by the laws of North Carolina for the execution of a valid will, including a paper-writing naming as beneficiary a revocable trust created by the incompetent; then all residuary legatees, devisees, and beneficiaries designated in the paper-writing or revocable trust or both, who would take under the paper-writing or revocable trust or both if the incompetent died contemporaneously with the signing of the order of approval of the gifts and the paper-writing was probated as the incompetent's will, the spouse, if any, of the incompetent and all persons identified in G.S. 35A-1341.1(7) have been given at least 10 days' written notice that approval for the gifts will be sought and that objection may be filed with the clerk of superior court of the county in which the guardian was appointed, within the 10-day period.

(6) If so far as is known, the incompetent has not, prior to being declared incompetent, executed a will which could be probated upon the death of the incompetent, all persons who would share in the incompetent's estate, if the incompetent died contemporaneously with the signing of the order of approval, have been given at least 10 days' written notice that approval for the gifts will be sought and that objection may be filed with the clerk of the superior court of the county in which the guardian was appointed, within the 10-day period.

(7) If the gift for which approval is sought is of a nonprobate asset, all persons who would share in that nonprobate asset if the incompetent died contemporaneously with the signing of the order of approval have been given at least 10 days' written notice that approval for the gifts will be sought and that objection may be filed with the clerk of the superior court of the county in which the guardian was appointed

within the 10-day period. This notice requirement shall be in addition to the notice requirements contained in G.S. 35A-1341.1(5) and (6) above.

The judge may order that the gifts be made in cash or in specific assets and may order that the gifts be made outright, in trust, under the North Carolina Uniform Transfers to Minors Act, under the North Carolina Uniform Custodial Trust Act, or otherwise. The judge may also order that the gifts be treated as an advancement of some or all of the amount the donee would otherwise receive at the incompetent's death."

Section 7. G.S. 35A-1342 reads as rewritten:

"*§ 35A-1342. Who deemed specific and residuary legatees and devisees of incompetent under § 35A-1341.*

For purposes of G.S. 35A-1341(6)a and G.S. 35A-1341.1(4) and (5), ~~of this Article,~~ if ~~such paper-writing~~ the paper-writing provides for the residuary estate to be placed in trust for a term of years, or if the paper-writing names as beneficiary a revocable trust created by the incompetent, and the trust or trusts include dispositive provisions which provide that assets continue in trust for a term of years with stated amounts of income payable to designated beneficiaries during the term and stated amounts payable to designated beneficiaries upon termination of the ~~trust, such~~ trust or trusts, the designated beneficiaries shall be deemed to be specific ~~legatees and devisees~~ legatees, devisees, and beneficiaries and those taking the remaining income of the trust or trusts and, at the end of the term, the remaining principal shall be deemed to be residuary ~~legatees and devisees~~ legatees, devisees, and beneficiaries who would take under the ~~paper-writing~~ paper-writing or revocable trust or both if the incompetent died contemporaneously with the signing of the order of approval of ~~such~~ the gifts. In no case shall any prospective executor or trustee be considered either a specific or residuary ~~legatee and devisee~~ legatee, devisee, or beneficiary on the sole basis of prospective service as executor or trustee."

Section 8. G.S. 35A-1343 reads as rewritten:

"*§ 35A-1343. Notice to minors and incompetents under ~~§ 35A-1341.~~ § 35A-1341 and § 35A-1341.1.*

If any person, to whom notice must be given under the provisions of G.S. ~~35A-1341(6)~~ 35A-1341 and G.S. 35A-1341.1 ~~of this Article,~~ is a minor or is incompetent, or is an unborn or unascertained beneficiary, then the notice shall be given to his duly appointed guardian or other duly appointed representative: Provided, that if a ~~minor or incompetent~~ minor, incompetent, unborn, or unascertained beneficiary has no ~~such~~ guardian or ~~representative~~ representative, then a guardian ad litem shall be appointed by the judge and ~~such~~ the guardian ad litem shall be given the notice herein required."

Section 9. G.S. 35A-1251 reads as rewritten:

"*§ 35A-1251. Guardian's powers in administering incompetent ward's estate.*

In the case of an incompetent ward, a general guardian or guardian of the estate has the power to perform in a reasonable and prudent manner every act that a reasonable and prudent person would perform incident to the collection, preservation, management, and use of the ward's estate to accomplish the desired result of administering the ward's estate legally and in the ward's best interest, including but not limited to the following specific powers:

(1) To take possession, for the ward's use, of all the ward's estate, as defined in G.S. 35A-1202(5).

(2) To receive assets due the ward from any source.

(3) To maintain any appropriate action or proceeding to recover possession of any of the ward's property, to determine the title thereto, or to recover damages for any injury done to any of the ward's property; also, to compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle any other claims in favor of or against the ward.

(4) To complete performance of contracts entered into by the ward that continue as obligations of the ward or his estate, or to refuse to complete ~~such~~ the contracts, as the guardian determines to be in the ward's best interests, taking into account any cause of action that might be maintained against the ward for failure to complete ~~such~~ the contract.

(5) To abandon or relinquish all rights in any property when, in the guardian's opinion, acting reasonably and in good faith, it is valueless, or is so encumbered or is otherwise in ~~such~~ a condition that it is of no benefit or value to the ward or his estate.

(5a) To renounce any interest in property as provided in Chapter 31B of the General Statutes, or as otherwise allowed by law.

(6) To vote shares of stock or other securities in person or by general or limited proxy, and to pay sums chargeable or accruing against or on account of securities owned by the ward.

(7) To insure the ward's assets against damage or loss, at the expense of the ward's estate.

(8) To pay the ward's debts and obligations that were incurred prior to the date of adjudication of incompetence or appointment of a guardian when the debt or obligation was incurred for necessary living expenses or taxes; or when the debt or obligation involves a specific lien on real or personal property, if the ward has an equity in the property on which there is a specific lien; or when the guardian is convinced that payment of the debt or obligation is in the best interest of the ward or his estate.

(9) To renew the ward's obligations for the payment of money. The guardian's execution of any obligation for the payment

of money pursuant to this subsection shall not be held or construed to be binding on the guardian personally.

(10) To pay taxes, assessments, and other expenses incident to the collection, care, administration, and protection of the ward's estate.

(11) To sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(12) To expend estate income on the ward's behalf and to petition the court for prior approval of expenditures from estate principal.

(13) To pay from the ward's estate necessary expenses of administering the ward's estate.

(14) To employ persons, including attorneys, auditors, investment advisors, appraisers, or agents to advise or assist him in the performance of his duties as guardian.

(15) To continue any business or venture or farming operation in which the ward was engaged, where ~~such~~ that continuation is reasonably necessary or desirable to preserve the value, including goodwill, of the ward's interest in ~~such~~ the business.

(16) To acquire and retain every kind of property and every kind of investment, including specifically, but without in any way limiting the generality of the foregoing, bonds, debentures, and other corporate or governmental obligations; stocks, preferred or common; real estate mortgages; shares in building and loan associations or savings and loan associations; annual premium or single premium life, endowment, or annuity contracts; and securities of any management type investment company or investment trust registered under the Federal Investment Company Act of 1940, as from time to time amended.

(17) a. Without a court order to lease any of the ward's real estate for a term of not more than three years, or to sell, lease or exchange any of the ward's personal property including securities, provided that the aggregate value of all items of the ward's tangible personal property sold without court order over the duration of the estate shall not exceed one thousand five hundred dollars ($1,500). When any item of the ward's tangible personal property has a value which when increased by the value of all other tangible personal property previously sold in the estate without a court order would exceed one thousand five hundred dollars ($1,500), a guardian may sell the item only as provided in subdivision (17)b.

b. A guardian who is required by subdivision (17)a to do so shall, and any other guardian who so desires may,

by motion in the cause, request the court to issue him an order to lease any of the ward's real estate or to sell any item or items of the ward's personal property. Notice of the motion and of the date, time and place of a hearing thereon shall be served, as provided in G.S. 1A-1, Rule 5, Rules of Civil Procedure, upon all parties of record and upon ~~such~~ any other persons ~~as~~ the clerk may direct, and the court may issue the order after conducting a hearing and upon ~~such~~ any conditions ~~as~~ that the court may require; provided that:

1. A sale, lease, or exchange under this subdivision may not be subject to Article 29A of Chapter 1 of the General Statutes unless the order so requires; and
2. The power granted in this subdivision shall not affect the power of the guardian to petition the court for prior approval of expenditures from estate principal under subdivision (12) of this section.

(18) To foreclose, as an incident to the collection of any bond, note or other obligation, any mortgage, deed or trust, or other lien securing ~~such~~ the bond, note or other obligation, and to bid in the property at ~~such~~ a foreclosure sale, or to acquire the property deed from the mortgagor or obligor without foreclosure; and to retain the property so bid in or taken over without foreclosure.

(19) To borrow money for ~~such~~ any periods of time and upon ~~such~~ the terms and conditions as to rates, maturities, renewals, and security as the guardian shall deem advisable, including the power of a corporate guardian to borrow from its own banking department, for the purpose of paying debts, taxes, and other claims against the ward, and to mortgage, pledge, or otherwise encumber ~~such~~ that portion of the ward's estate as may be required to secure ~~such~~ the loan or loans; provided, in respect to the borrowing of money on the security of the ward's real property, Subchapter III of this Chapter is controlling.

(20) To execute and deliver all instruments that will accomplish or facilitate the exercise of the powers vested in the guardian.

(21) To expend estate income for the support, maintenance, and education of the ward's minor children, spouse, and dependents, and to petition the court for prior approval of expenditures from estate principal for these purposes; provided, the clerk, in the original order appointing the guardian or a subsequent order, may require that the expenditures from estate income also be approved in advance. In determining whether and in what amount to make or approve these expenditures, the guardian or clerk shall take into account the ward's legal obligations to his

minor children, spouse, and dependents; the sufficiency of the ward's estate to meet the ward's needs; the needs and resources of the ward's minor children, spouse, and dependents; and the ward's conduct or expressed wishes, prior to becoming incompetent, in regard to the support of these persons.

(22) To transfer to the spouse of the ward those amounts authorized for transfer to the spouse pursuant to 42 United States Code § 1396r-5.

(23) To create a trust for the benefit of the ward pursuant to 42 United States Code § 1396p(d)(4), provided that all amounts remaining in the trust upon the death of the ward, other than those amounts which must be paid to a state government, are to be paid to the estate of the ward.

(24) To petition the court for prior approval of transfers of assets of the ward to a revocable trust executed by the ward prior to the ward being declared incompetent, provided that the ward executed a paper-writing with all the formalities required by the laws of North Carolina for the execution of a valid will prior to the ward being declared incompetent and that will directs that the assets that are being transferred to the trust are to be distributed to the trust at the ward's death or the revocable trust has the same dispositive provisions as the ward's will or provides that the assets in the trust are to be distributed to the ward's estate upon the death of the ward. The guardian may at any time withdraw any assets (or the proceeds of the sale of any assets) transferred by the guardian to the trust upon 30 days' written notice to the trustee of the trust; provided, however, no assets which have been distributed or otherwise disposed of by the trustee (before the notice is received by the trustee) in accordance with the terms of the trust can be so withdrawn."

Section 10. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 28th day of June, 1999.

Became law upon approval of the Governor at 2:05 p.m. on the 9th day of July, 1999.

H.B. 1150 **SESSION LAW 1999-271**

AN ACT TO PROVIDE FOR THE ELECTION OF MEMBERS OF SCHOOL IMPROVEMENT TEAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-105.27 reads as rewritten:

"§ *115C-105.27. Development and approval of school improvement plans.*

In order to improve student performance, each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35. The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance. Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot. Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation. The strategies for improving student performance shall include a plan for the use of staff development funds that may be made available to the school by the local board of education to implement the school improvement plan and shall include a plan to address school safety and discipline concerns in accordance with the safe school plan developed under Article 8C of this Chapter. The strategies may include a decision to use State funds in accordance with G.S. 115C-105.25. The strategies may also include requests for waivers of State laws, rules, or policies for that school. A request for a waiver shall meet the requirements of G.S. 115C-105.26.

Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The principal of the school shall present the proposed school improvement plan to all of the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for their review and vote. The vote shall be by secret ballot. The principal shall submit the school improvement plan to the local board of education only if the proposed school improvement plan has the approval of a majority of the staff who voted on the plan.

The local board of education shall accept or reject the school improvement plan. The local board shall not make any substantive changes in any school improvement plan that it accepts. If the local board rejects a school improvement plan, the local board shall state with specificity its reasons for rejecting the plan; the school

improvement team may then prepare another plan, present it to the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for a vote, and submit it to the local board to accept or reject. If no school improvement plan is accepted for a school within 60 days after its initial submission to the local board, the school or the local board may ask to use the process to resolve disagreements recommended in the guidelines developed by the State Board under G.S. 115C-105.20(b)(5). If this request is made, both the school and local board shall participate in the process to resolve disagreements. If there is no request to use that process, then the local board may develop a school improvement plan for the school. The General Assembly urges the local board to utilize the school's proposed school improvement plan to the maximum extent possible when developing such a plan.

A school improvement plan shall remain in effect for no more than three years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the local board finds that a school improvement plan is impeding student performance at a school, the local board may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this subsection shall apply to amendments and revisions to school improvement plans."

Section 2. This act becomes effective July 1, 1999, and applies to school years beginning with the 1999-2000 school year.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law upon approval of the Governor at 10:30 p.m. on the 11th day of July, 1999.

H.B. 958 **SESSION LAW 1999-272**

AN ACT TO CLARIFY THAT CONFIDENTIAL INFORMATION OBTAINED BY HEALTH MAINTENANCE ORGANIZATIONS OR PROVIDER SPONSORED ORGANIZATIONS MAY BE DISCLOSED PURSUANT TO COURT ORDER FOR CERTAIN PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-67-180 reads as rewritten:

"*§ 58-67-180. Confidentiality of medical information.*

Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this Article; or upon the express consent of the enrollee or applicant; or pursuant to ~~statute or~~ statute; or pursuant to court order for the

production of evidence or the discovery thereof; or in the event of claim or litigation between such person and the health maintenance organization wherein such data or information is pertinent. A health maintenance organization shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the health maintenance organization is entitled to claim."

Section 2. G.S. 131E-310 reads as rewritten:

"§ *131E-310. Confidentiality of medical information.*

Any data or information pertaining to the diagnosis, treatment, or health of any beneficiary or applicant obtained from the person or from any provider by any provider sponsored organization or by any provider acting pursuant to its provider contract with a provider sponsored organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this Article; or upon the express consent of the beneficiary or applicant; or pursuant to ~~statute or~~ statute; or pursuant to court order for the production of evidence or the discovery thereof; or in the event of claim or litigation between such person and the provider sponsored organization wherein such data or information is pertinent. A provider sponsored organization shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the provider sponsored organization is entitled to claim.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 10:33 p.m. on the 11th day of July, 1999.

H.B. 1025 **SESSION LAW 1999-273**

AN ACT TO ALLOW SMALL EMPLOYERS TO CHARGE THE SAME ADMINISTRATIVE FEE UNDER THE STATE GROUP HEALTH CONTINUATION LAW AS LARGER EMPLOYERS CHARGE UNDER THE FEDERAL COBRA GROUP HEALTH CONTINUATION LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-53-30 reads as rewritten:

"§ *58-53-30. Payment of premiums.*

An employee or member electing continuation must pay to the group policyholder or his employer, in advance, the amount of contribution required by the policyholder or employer, but not more than one hundred two percent (102%) of the full group rate for the insurance applicable under the group policy on the due date of each payment. The employee or member may not be required to pay the amount of the contribution less often than monthly. In order to be eligible for continuation of coverage, the employee or member must

make a written election of continuation, on a form furnished by the group policyholder, and pay the first contribution, in advance, to the policyholder or employer on or before the date on which employee's or member's insurance would otherwise terminate."

Section 2. This act becomes effective September 1, 1999, and applies to group health insurance continuation that commences on or after that date.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 10:35 p.m. on the 11th day of july, 1999.

H.B. 1054 **SESSION LAW 1999-274**

AN ACT TO REQUIRE ALL ACTIVITY BUSES TO STOP AT ALL RAILROAD CROSSINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-142.3(a) reads as rewritten:

"(a) Before crossing at grade any track or tracks of a railroad, the driver of any school bus, any activity bus, any motor vehicle carrying passengers for compensation, any property-hauling motor vehicle over 10,000 pounds which is carrying hazardous materials, and any motor vehicle with a capacity of 16 or more persons shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad. While stopped, the driver shall listen and look in both directions along the track for any approaching train and shall not proceed until he can do so safely. Upon proceeding, the driver of the vehicle shall cross the track in a gear that allows the driver to cross the track without changing gears and the driver shall not change gears while crossing the track or tracks."

Section 2. G.S. 20-142.3(b) reads as rewritten:

"(b) Except for school ~~buses,~~ buses and activity buses, the provisions of this section shall not require the driver of a vehicle to stop:

(1) At railroad tracks used exclusively for industrial switching purposes within a business district.

(2) At a railroad grade crossing which a police officer or crossing flagman directs traffic to proceed.

(3) At a railroad grade crossing protected by a gate or flashing signal designed to stop traffic upon the approach of a train, when the gate or flashing signal does not indicate the approach of a train.

(4) At an abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned.

(5) At an industrial or spur line railroad grade crossing marked with a sign reading "Exempt" erected by or with the consent of the appropriate State or local authority."

Section 3. This act becomes effective August 1, 1999 and applies to offenses occurring on or after that date.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 10:38 p.m. on the 11th day of July, 1999.

H.B. 1187 **SESSION LAW 1999-275**

AN ACT TO ESTABLISH A PILOT PROGRAM TO PUT COMMUNICATION DEVICES ON SCHOOL BUSES.

The General Assembly of North Carolina enacts:

Section 1. The State Board of Education shall establish a pilot program in one or more local school administrative units, including the Northampton County Schools, to enable local boards of education to use State school transportation funds to install communication devices in school buses.

The State Board shall report the results of the study to the Joint Legislative Education Oversight Committee prior to January 1, 2000. The report shall include the cost of the pilot program and the benefits derived from it.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 10:41 p.m. on the 11th day of July, 1999.

H.B. 1263 **SESSION LAW 1999-276**

AN ACT TO PROVIDE THAT A PERSON BETWEEN SIXTEEN AND EIGHTEEN YEARS OF AGE WITH A DRIVERS LICENSE ISSUED BY THE FEDERAL GOVERNMENT MAY BE ISSUED THE PROPER DRIVERS PERMIT UNDER THE GRADUATED DRIVERS LICENSE PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11 is amended by adding a new subsection to read:

"(h3) Exception for Persons Less Than Age 18 Who Have a Federally Issued Unrestricted or Restricted License. -- A person who is less than age 18, who has an unrestricted or restricted drivers license issued by the federal government, and who becomes a resident of this State may obtain a limited provisional license or a provisional license if the person has completed a drivers education program substantially equivalent to the drivers education program that meets the requirements of the Superintendent of Public Instruction. A person who qualifies for a limited provisional license or a provisional license under this subsection and whose parent or guardian certifies that the

person has not been convicted of a moving violation in the preceding six months shall be deemed to have held a limited provisional license or a provisional license in this State for each month the person held an unrestricted or restricted license issued by the federal government."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

Became law upon approval of the Governor at 10:44 p.m. on the 11th day of July, 1999.

S.B. 235 **SESSION LAW 1999-277**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "KIDS FIRST" SPECIAL REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

...

(20a) Kids First. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Kids First" and a logo of children's hands."

Section 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
March of Dimes	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Wildlife Resources	$20.00
Personalized	$20.00

Active Member of the National Guard	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
Olympic Games	$10	$15	0
State Attraction	$10	$20	0
March of Dimes	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0".

Section 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b9) Kids First Plates. -- The Division must receive 300 or more applications for a Kids First plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Kids First plates to the North Carolina Children's Trust Fund established in G.S. 7B-1302."

Section 5. G.S. 7B-1302 reads as rewritten:

"§ *7B-1302. Children's Trust Fund.*

There is established a fund to be known as the "Children's Trust Fund," in the Department of State Treasurer, which shall be funded ~~pursuant to G.S. 161-11.1, and which~~ by a portion of the marriage license fee under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The money in the Fund shall be used by the State Board of Education to fund abuse and neglect prevention programs so authorized by this Article."

Section 6. This act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law upon approval of the Governor at 10:47 p.m. on the 11th day of July, 1999.

S.B. 654 **SESSION LAW 1999-278**

AN ACT TO RESTORE THE PRE-1995 LAW ON DISPOSAL OF PROPERTY AND LIENS RELATING TO MANUFACTURED HOUSING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 42-25.9(b) reads as rewritten:

"(b) If any lessor, landlord, or agent seizes possession of or interferes with a tenant's access to a tenant's or household member's personal property in any manner not in accordance with G.S. 44A-2(e2), 42-25.9(d), 42-25.9(g), 42-25.9(h), or 42-36.2 the tenant or household member shall be entitled to recover possession of his personal property or compensation for the value of the personal property, and, in any action brought by a tenant or household member under this Article, the landlord shall be liable to the tenant or household member for actual damages, but not including punitive damages, treble damages or damages for emotional distress."

Section 2. G.S. 42-25.9(g) reads as rewritten:

"(g) Ten days after being placed in lawful possession by execution of a writ of possession, a landlord may throw away, dispose of, or sell all items of personal property remaining on the ~~premises.~~ premises, except that in the case of the lease of a space for a manufactured home as defined in G.S. 143-143.9(6), G.S. 44A-2(e2) shall apply to the disposition of a manufactured home with a current value in excess of five hundred dollars ($500.00) and its contents by a landlord after

being placed in lawful possession by execution of a writ of possession. During the 10-day period after being placed in lawful possession by execution of a writ of possession, a landlord may move for storage purposes, but shall not throw away, dispose of, or sell any items of personal property remaining on the premises unless otherwise provided for in this Chapter. Upon the tenant's request prior to the expiration of the 10-day period, the landlord shall release possession of the property to the tenant during regular business hours or at a time agreed upon. If the landlord elects to sell the property at public or private sale, the landlord shall give written notice to the tenant by first-class mail to the tenant's last known address at least seven days prior to the day of the sale. The seven-day notice of sale may run concurrently with the 10-day period which allows the tenant to request possession of the property. The written notice shall state the date, time, and place of the sale, and that any surplus of proceeds from the sale, after payment of unpaid rents, damages, storage fees, and sale costs, shall be disbursed to the tenant, upon request, within 10 days after the sale, and will thereafter be delivered to the government of the county in which the rental property is located. Upon the tenant's request prior to the day of sale, the landlord shall release possession of the property to the tenant during regular business hours or at a time agreed upon. The landlord may apply the proceeds of the sale to the unpaid rents, damages, storage fees, and sale costs. Any surplus from the sale shall be disbursed to the tenant, upon request, within 10 days of the sale and shall thereafter be delivered to the government of the county in which the rental property is located."

Section 3. G.S. 42-36.2(b) reads as rewritten:

"(b) Sheriff May Store Property. -- When the sheriff removes the personal property of an evicted tenant from demised premises pursuant to a writ or order the tenant shall take possession of his property. If the tenant fails or refuses to take possession of his property, the sheriff may deliver the property to any storage warehouse in the county, or in an adjoining county if no storage warehouse is located in that county, for storage. The sheriff may require the landlord to advance the cost of delivering the property to a storage warehouse plus the cost of one month's storage before delivering the property to a storage warehouse. If a landlord refuses to advance these costs when requested to do so by the sheriff, the sheriff shall not remove the tenant's property, but shall return the writ unexecuted to the issuing clerk of court with a notation thereon of his reason for not executing the writ. ~~Within~~ Except for the disposition of manufactured homes and their contents as provided in G.S. 42-25.9(g) and G.S. 44A-2(e2), within 10 days of the landlord's being placed in lawful possession by execution of a writ of possession and upon the tenant's request within that 10-day period, the landlord shall release possession of the property to the tenant during regular business hours or at a time agreed upon. During the 10-day period after being placed in lawful possession by execution of a writ of possession, a landlord may move for storage purposes, but shall not throw away, dispose of, or sell any

items of personal property remaining on the premises unless otherwise provided for in this Chapter. After the expiration of the 10-day period, the landlord may throw away, dispose of, or sell the property in accordance with the provisions of G.S. 42-25.9(g). If the tenant does not request release of the property within 10 days, all costs of summary ejectment, execution and storage proceedings shall be charged to the tenant as court costs and shall constitute a lien against the stored property or a claim against any remaining balance of the proceeds of a warehouseman's lien sale."

Section 4. G.S. 42-36.2(d) reads as rewritten:

"(d) Notice. -- The notice required by subsection (a) ~~shall~~ shall, except in actions involving the lease of a space for a manufactured home as defined in G.S. 143-143.9(6), inform the tenant that failure to request possession of any property on the premises within 10 days of execution may result in the property being thrown away, disposed of, or sold. Notice shall be made by one of the following methods:

(1) By delivering a copy of the notice to the tenant or his authorized agent at least two days before the time stated in the notice for serving the writ;

(2) By leaving a copy of the notice at the tenant's dwelling or usual place of abode with a person of suitable age and discretion who resides there at least two days before the time stated in the notice for serving the writ; or

(3) By mailing a copy of the notice by first-class mail to the tenant at his last known address at least five days before the time stated in the notice for serving the writ."

Section 5. G.S. 44A-2 is amended by adding a new subsection to read:

"(e2) Any lessor of a space for a manufactured home as defined in G.S. 143-143.9(6) has a lien on all furniture, furnishings, and other personal property including the manufactured home titled in the name of the tenant if (i) the manufactured home remains on the demised premises 21 days after the lessor is placed in lawful possession by writ of possession and (ii) the lessor has a lawful claim for damages against the tenant. If the lessor has received a judgment for possession of the premises which has been executed, then all property remaining on the premises may be removed and placed in storage. Prior to the expiration of the 21-day period, the landlord shall release possession of the personal property and manufactured home to the tenant during regular business hours or at a time mutually agreed upon. This lien shall be for the amount of any rents which were due the lessor at the time the tenant vacated the premises and for the time, up to 60 days, from the vacating of the premises to the date of sale; and for any sums necessary to repair damages to the premises caused by the tenant, normal wear and tear excepted; and for reasonable costs and expenses of the sale. The lien created by this subsection shall be enforced by public sale under G.S. 44A-4(e). The landlord may begin the advertisement for sale process immediately upon execution of the writ of possession by the sheriff, but may not conduct the sale

until the lien has attached. This lien shall not have any priority over any security interest in the property that is perfected at the time the lessor acquires this lien. The lessor shall not have a lien under this subsection if there is an agreement between the lessor or the lessor's agent and the tenant that the lessor shall not have a lien."

Section 6. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law upon approval of the Governor at 10:49 p.m. on the 11th day of july, 1999.

H.B. 304 **SESSION LAW 1999-279**

AN ACT TO PROVIDE CRIMINAL PENALTIES FOR FRAUDULENT MISREPRESENTATION INVOLVING CHILD CARE SUBSIDIES AND TO PROVIDE COUNTIES A FINANCIAL INCENTIVE TO INVESTIGATE AND PURSUE FRAUD IN CHILD CARE PAYMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 110 of the General Statutes is amended by adding a new section to read:

"*§ 110-107. Fraudulent misrepresentation.*

(a) A person, whether a provider or recipient of child care subsidies or someone claiming to be a provider or recipient of child care subsidies, commits the offense of fraudulent misrepresentation when both of the following occur:

(1) With the intent to deceive, that person makes a false statement or representation regarding a material fact, or fails to disclose a material fact.

(2) As a result of the false statement or representation or the omission, that person obtains, attempts to obtain, or continues to receive a child care subsidy for himself or herself or for another person.

(b) If the child care subsidy is not more than one thousand dollars ($1,000), the person is guilty of a Class 1 misdemeanor. If the child care subsidy is more than one thousand dollars ($1,000), the person is guilty of a Class I felony.

(c) As used in this section:

(1) 'Child care subsidy' means the use of public funds to pay for day care services for children.

(2) 'Person' means an individual, association, consortium, corporation, body politic, partnership, or other group, entity, or organization."

Section 2. Chapter 110 of the General Statutes is amended by adding a new section to read:

"*§ 110-108. Financial incentives for counties to investigate and pursue alleged child care fraud.*

The Department of Health and Human Services shall allow each local purchasing agency to retain as an incentive bonus the actual amount of child care fraud and overpayment claims collected by the local purchasing agency. Incentive bonuses under this section shall be used by the agency for the purchase of subsidized child care or to enhance and improve program integrity. The agency shall use at least seventy-five percent (75%) of the incentive bonus funds under this section for the purchase of subsidized child care. The agency shall not use more than twenty-five percent (25%) of the incentive bonus funds under this section for program integrity. On or before October 1 each year, each agency shall report to the Department of Health and Human Services on the use of the incentive bonuses under this section during the previous fiscal year. This section does not apply to overpayments due to administrative errors of local purchasing agency staff."

Section 3. Section 1 of this act becomes effective December 1, 1999, and applies to offenses committed on or after that date. The remainder of this act becomes effective July 1, 1999.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law upon approval of the Governor at 10:52 p.m. on the 11th day of July, 1999.

S.B. 998 **SESSION LAW 1999-280**

AN ACT TO PROVIDE THAT MEMBERS APPOINTED TO THE CANCER CONTROL ADVISORY COMMITTEE FOR INITIAL TWO-YEAR TERMS MAY EACH BE REAPPOINTED FOR ONE ADDITIONAL FOUR-YEAR TERM.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 130A-33.50(b), members of the Advisory Committee on Cancer Coordination and Control appointed in 1993 to serve initial two-year terms may be reappointed for one additional four-year term commencing upon the expiration of the current terms of those members.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law upon approval of the Governor at 10:53 p.m. on the 11th day of July, 1999.

H.B. 1030 **SESSION LAW 1999-281**

AN ACT TO CHANGE THE LIGHTING REQUIREMENTS FOR LIGHT TRAILERS AND EXEMPT CERTAIN ADDITIONAL FARM TRAILERS FROM THE REGISTRATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-129(d) reads as rewritten:

"(d) Rear Lamps. -- Every motor vehicle, and every trailer or semitrailer attached to a motor vehicle and every vehicle which is being drawn at the end of a combination of vehicles, shall have all originally equipped rear lamps or the equivalent in good working order, which lamps shall exhibit a red light plainly visible under normal atmospheric conditions from a distance of 500 feet to the rear of such vehicle. One rear lamp or a separate lamp shall be so constructed and placed that the number plate carried on the rear of such vehicle shall under like conditions be illuminated by a white light as to be read from a distance of 50 feet to the rear of such vehicle. Every trailer or semitrailer shall carry at the rear, in addition to the originally equipped lamps, a red reflector of the type which has been approved by the Commissioner and which is so located as to height and is so maintained as to be visible for at least 500 feet when opposed by a motor vehicle displaying lawful undimmed lights at night on an unlighted highway.

Notwithstanding the provisions of the first paragraph of this subsection, it shall not be necessary for a trailer weighing less than 4,000 ~~pounds~~ pounds, or a trailer described in G.S. 20-51(6) weighing less than 6,500 pounds, to carry or be equipped with a rear lamp, provided such vehicle is equipped with and carries at the rear two red reflectors of a diameter of not less than three inches, such reflectors to be approved by the Commissioner, and which are so designed and located as to height and are maintained so that each reflector is visible for at least 500 feet when approached by a motor vehicle displaying lawful undimmed headlights at night on an unlighted highway.

The rear lamps of a motorcycle shall be lighted at all times while the motorcycle is in operation on highways or public vehicular areas."

Section 2. G.S. 20-51(6) reads as rewritten:

"*§ 20-51. Exempt from registration.*

The following shall be exempt from the requirement of registration and certificate of title:

. . .

(6) Any trailer or semitrailer attached to and drawn by a properly licensed motor vehicle when used by a farmer, his tenant, agent, or employee in transporting unginned cotton, peanuts, soybeans, corn, hay, tobacco, silage, cucumbers, potatoes, fertilizers or chemicals purchased or owned by ~~such~~ the farmer or tenant for personal use in implementing ~~husbandry or~~ husbandry, irrigation ~~pipes and~~ pipes, loaders, or equipment owned by ~~such~~ the farmer or tenant from place to place on the same farm, from one farm to another, from farm to gin, from farm to dryer, or from farm to market, and when not operated on a for-hire basis. The term "transporting" as used herein shall include the actual

hauling of said products and all unloaded travel in connection therewith."

Section 3. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 1st day of July, 1999.

Became law upon approval of the Governor at 10:59 p.m. on the 11th day of July, 1999.

H.B. 531 **SESSION LAW 1999-282**

AN ACT TO CONFIRM THAT LEE COUNTY MAY PURCHASE AND CONVEY PROPERTY TO THE STATE OF NORTH CAROLINA FOR USE AS A DIVISION OF MOTOR VEHICLES AND HIGHWAY PATROL FACILITY.

The General Assembly of North Carolina enacts:

Section 1. The County of Lee has power under general lato acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a Division of Motor Vehicles and Highway Patrol facility.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 1999.

Became law on the date it was ratified.

H.B. 738 **SESSION LAW 1999-283**

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF GREENVILLE, AND AUTHORIZING THE TOWN OF CATAWBA TO ANNEX PROPERTY ENCLOSED BY THE CORPORATE BOUNDARIES OF THE TOWN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Greenville as to any property if the City has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to which a point on the proposed satellite corporate limits is closer and that agreement states that the other city will not annex the property.

Section 2.(a) Notwithstanding the provisions of G.S. 160A-36, the Town of Catawba may adopt ordinances annexing property that, on January 1, 1999, was completely enclosed by the corporate limits of the Town, if the Town does the following:

(1) Fixes a date for a public hearing on the annexation and publishes notice of the public hearing at least 10 days before the date of the hearing.

(2) Makes a finding based upon circumstances and evidence satisfactory to the Town Council that the annexation is necessary for the orderly growth and development of the Town.

Section 2.(b) The procedure for recording any annexation under this section shall be as provided in G.S. 160A-39.

Section 2.(c) Any annexation ordinance adopted by the Town Council under this section shall be adopted before December 31, 1999.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 1999.

Became law on the date it was ratified.

S.B. 694 **SESSION LAW 1999-284**

AN ACT TO INCORPORATE THE TOWN OF RIMERTOWN SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Rimertown is enacted to read:

"CHARTER OF THE TOWN OF RIMERTOWN.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Rimertown are a body corporate and politic under the name 'Town of Rimertown'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of Rimertown are as follows:

BEGINNING in Cabarrus County at a point in the centerline of Gold Hill Road (SR 2408) due south of the centerline of Rimer Road (SR 2429), thence in a east-northeast direction to the intersection of the centerline of Gold Hill Road (SR 2408) and Cline School Road (SR 2427), thence in a northeasterly direction to a point approximately 697 feet northeast of the centerline of Jennie Wolfe Creek, being the northeast corner of property described by Cabarrus County Tax Maps as Map/PIN 5662-47-1320.

Continuing in a northwest direction along the northern property line of Map/PIN 5662-47-1320 for approximately 815.83 feet, crossing Jennie Wolfe Creek at approximately 500 feet, thence in a northeasterly direction for approximately 300 feet to the centerline of

Jennie Wolfe Creek. Thence continuing in a west-northwest direction along Jennie Wolfe Creek, the creek being showed property lines with the following Map/PINs 5662-37-0824 and 5662-38-8375, 5662-29-9245 and 5662-48-2832 and 5662-49-6146, 5663-21-5019 and 5662-49-6146, 5662-49-8551, to the northernmost point in Map/PIN 5662-59-2563 in the centerline of Jennie Wolfe Creek, thence in a southeast direction to the southernmost point in Map/PIN 5663-32-4457. Thence in a northeast direction along the eastern boundaries of Map/PINs 5663-32-4457, 5663-23-6175, 5663-34-2252 and 5663-26-4073 to the southeast corner of Map/PIN 5663-26-4073, thence in a northwest direction from that corner to a point in the centerline of Jennie Wolfe Creek, continuing with the centerline of Jennie Wolfe Creek in a northeast direction to the centerline of Kluttz Road (SR 2435).

Continuing in a southwest direction with Kluttz Road (SR 2435) for approximately 100 feet to the southeast corner of Map/Pin 5663-46-6452, thence in a northerly direction to the northeast corner of Map/PIN 5663-46-6452. Thence in a northwest direction to the northernmost corner of Map/PIN 5663-46-0501, thence in a southerly direction along the western line of Map/PIN 5663-46-0501 to a point in the centerline of Kluttz Road (SR 2435), thence with the centerline of Kluttz Road (SR 2435) for a distance of approximately 513 feet to a 15-foot-wide portion of Map/PIN 5663-45-2340, crossing that portion to the corner of a portion of Map/PIN 5663-26-8734, thence in a line parallel to the 15-foot-wide portion of Map/PIN 5663-26-8734 for a length of approximately 200 feet in a southeasterly direction, thence in a southwesterly direction for a distance of approximately 200 feet, thence in a northwesterly direction for approximately 220 feet to the centerline of Kluttz Road (SR 2435).

Continuing from that point in the centerline of Kluttz Road (SR 2435) in a northwesterly direction along the northeast property line of Map/PIN 5663-26-4073, passing through a line shared with Map/PIN 5663-16-9741 to a point in the eastern property line of Map/PIN 5663-07-9409, thence in a northeasterly direction with the property line of Map/PIN 5663-07-9409 to a point in the property line of Map/PIN 5663-19-7038. Thence with a line shared by Map/PINs 5663-19-7038, 5663-26-8734, 5663-39-3485, 5663-26-8734, and 5663-28-9179 to the point of Map/PIN 5663-28-9179 in Sisk-Carter Road (SR 2434), thence in a southwesterly direction following the eastern line of a portion of Map/PIN 5663-93-3485 south of Sisk-Carter Road (SR 2434) for approximately 500 feet, thence with the southern line of Map/PIN 5663-93-3485 to the easternmost corner of Map/PIN 5663-58-1098 south of Sisk-Carter Road (SR 2434), thence in a northeasterly direction along the eastern line of Map/PIN 5663-49-4299 for approximately 392 feet to the center of Sisk-Carter Road (SR 2434), continuing in that northeasterly direction 863 feet to the northeast corner of Map/PIN 5663-49-4299.

From that point continuing along a northwest line along the rear property lines of Map/PINs 5663-49-4299 and 5663-49-1428 to a point in Map/PIN 5663-39-9608 approximately 20 feet northwest of the corner shared by Map/PINs 5663-49-1428 and 5663-39-9608, thence in a northerly direction to the northeast corner of Map/PIN 5663-39-9608, thence in an easterly direction with a line shared by Map/PINs 5663-39-9608, 5663-39-4931, 5664-20-6147 and 5664-20-0783 to the centerline of an unnamed dirt road, thence following the northern line of Map/PINs 5664-20-2270, 5664-10-5149 and 5664-00-7187 to the centerline of Rimer Road (SR 2429).

Continuing with the centerline of Rimer Road (SR 2429) in a southerly direction to the western edge of Map/PIN 5653-99-9111, thence in a line shared by Map/PINs 5653-99-9111 and 5653-98-7998 to the northernmost point of Map/PIN 5653-98-7998, thence with the line of Map/PIN 5653-98-7998 for 5 calls to the centerline of Rimer Road (SR 2429), thence with the center of Rimer Road (SR 2429) to the easternmost point of Map/PIN 5653-98-4817, thence with the line of Map/PIN 5653-98-4817 in a northwesterly direction to the eastern line of Map/PIN 5653-88-7937, thence in a northeasterly line of Map/PIN 5653-88-7937 to the easternmost corner of the property, thence in a northwestern direction within the northern lines of Map/PINs 5653-88-7937 and 5653-89-4038 to the northwest corner of Map/PIN 5653-89-4038, thence in a southwestern direction with the line shared by Map/PINs 5653-89-4038 and 5653-79-2735 to the northeast corner of Map/PIN 5653-89-1039, thence in a northeastern direction along the northern lines of Map/PINs 5653-89-1039 and 5653-79-7047 to the northwest corner of Map/PIN 5653-79-7047, thence in a southwesterly direction with the western line of Map/PIN 5653-79-7047 to the centerline of Phaniels Church Road (SR 2433).

Thence with the centerline of Phaniels Church Road (SR 2433) to a point where a 45' private right-of-way adjoins Phaniels Church Road (SR 2433) on the southern side of the road, thence with the 45' private right-of-way in a southern and western direction to the southwest corner of Map/PIN 5653-59-8350, thence in a northeasterly direction with the eastern line of Map/PIN 5653-59-8350 for a distance of approximately 398 feet to the centerline of Phaniels Church Road (SR 2433), thence returning in a southeasterly direction with the centerline of Phaniels Church Road (SR 2433) to the southeast corner of Map/PIN 5653-69-3781, thence in a northeastern direction to the northeast corner of Map/PIN 5653-69-3781, thence in a northwestern direction with the northern line of Map/PIN 5653-69-3781 to the eastern line of Map/PIN 5654-80-0109, thence in a northwestern direction with the line of Map/PIN 5654-80-0109 to the northeast corner of Map/PIN 5654-80-0109, thence in a northwestern direction to the northwest corner of Map/PIN 5654-80-0109, thence in a northeast direction with the line of Map/PIN 5654-50-6844 to the Rowan/Cabarrus County line, thence with the Rowan/Cabarrus County

line to the centerline of Phaniels Church Road (SR 2433), continuing with the Rowan/Cabarrus County line to the northwest corner of Map/PIN 5654-40-2963, thence with the line shared by Map/PINs 5654-40-2963 and 5654-40-8423 to the southwest corner of Map/PIN 5654-40-8423, thence with the western line of Map/PIN 5653-27-1609 for a distance of approximately 370 feet, thence in a southwestern direction on a line shared by Map/PINs 5653-39-9318 and 5653-39-6273 for approximately 915 feet to the northeast corner of Map/PIN 5653-39-6273, thence in a southeasterly direction for approximately 109 feet to a point in Map/PIN 5653-39-6273, thence in a southwesterly direction with the western lines of Map/PINs 5653-39-6273 and 5653-38-3602 to the centerline of Pless Road (SR 2432).

Continuing in an easterly direction with the centerline of Pless Road (SR 2432) to the western edge of Map/PIN 5653-37-6074, thence with the property line of Map/PIN 5653-37-6074 three different lines to the easternmost point of Map/PIN 5653-37-3965, thence in a westerly line with the southern line of Map/PIN 5653-37-6074 in a westerly direction to the westernmost part of Map/PIN 5653-37-6074, thence in a southeasterly direction with the line of Map/PIN 5653-37-6074 for approximately 100 feet to the northwestern corner of Map/PIN 5653-35-9469, thence in a southerly direction with the line of Map/PIN 5653-35-9469 to the centerline of Dutch Buffalo Creek, thence with the centerline of Dutch Buffalo Creek in a southerly direction with the centerline of Dutch Buffalo Creek being the western property lines with these Map/PINs 5653-35-9469, 5653-34-4556, 5653-32-4327, 5653-41-4938, 5653-40-5907, 5653-30-5169, 5652-39-6735, 5652-39-6374, 5652-39-6060, and 5652-37-6977 to the southeast corner of Map/PIN 5652-37-6977, thence with the southern line of Map/PIN 5652-37-6977 for a distance of approximately 1713 feet to a corner shared by Map/PIN 5652-37-6977 and Map/PIN 5652-46-2268.

Continuing in a southeasterly direction with the line shared by Map/PINs 5652-46-2268 and 5652-65-1952 to the easternmost point of Map/PIN 5652-46-2268, thence in a westerly direction with the line of Map/PIN 5652-46-2268 to a point shared by the southwest corner of Map/PIN 5652-46-2268 and the southwest corner of Map/PIN 5652-56-3192, thence in an easterly direction with the northern line of Map/PIN 5652-44-5766 to the northeast corner of Map/PIN 5652-44-5766, thence in a southwesterly direction with the western property lines of Map/PINs 5652-55-2303, 5652-43-9631, and 5652-54-3175 to the centerline of Gold Hill Road (SR 2408) to the point of BEGINNING.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Rimertown shall be the Town Council, which shall have four members, and the Mayor.

"Section 3.2. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 1999, the two candidates receiving the highest number of votes shall be elected to four- year terms and the two candidates receiving the next highest number of votes shall be elected to two-year terms. In 2001 and biennially thereafter, two members shall be elected to four- year terms.

"Section 3.3. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 1999 and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"CHAPTER IV.
"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.
"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Rimertown shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the North Carolina General Statutes."

Section 2. From and after the effective date of this act, the citizens and property in the Town of Rimertown shall be subject to municipal taxes levied for the year beginning July 1, 1999. For that purpose the Town shall obtain from Cabarrus County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1999-2000, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in N.C.G.S. 105-360. If this act is approved under Sections 3 and 4 of this act before July 1, 1999, the Town may adopt a budget ordinance for fiscal year 1998-99 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical.

Section 3. The Cabarrus County Board of Elections shall conduct an election on November 2, 1999, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Rimertown the question of whether or not the area shall be incorporated as the Town of Rimertown. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

Section 4. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Rimertown."

Section 5. In the election, if a majority of the votes are cast "For incorporation of the Town of Rimertown", Sections 1 through 2 of this act shall become effective on the date that the Cabarrus County Board of Elections certifies the results of the election. Otherwise, those sections shall have no force and effect.

Section 5.1.(a) At the same time as the referendum held under Section 3 of this act, the Cabarrus County Board of Elections shall hold an election for the initial Mayor and Council. If the majority of votes is not cast "FOR Incorporation of the Town of Rimertown", the election of officers is null and void.

Section 5.1.(b) Notwithstanding G.S. 163-294.2, the filing period for Mayor and City Council for the 1999 municipal election shall open at 12:00 noon on Monday, July 19, 1999.

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 1999.

Became law on the date it was ratified.

H.B. 149 **SESSION LAW 1999-285**

AN ACT TO REDUCE THE PISTOL PERMIT FEE IN PITT COUNTY FROM TWENTY DOLLARS TO FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 205 of the 1993 Session Laws reads as rewritten:

"Sec. 2. This act applies ~~only to Martin County and Pitt County.~~ to Martin County only."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 1999.

Became law on the date it was ratified.

H.B. 812 **SESSION LAW 1999-286**

AN ACT TO REMOVE THE SUNSET ON A REQUIREMENT THAT PART OF CERTAIN CRAVEN COUNTY PROCEEDS BE USED FOR A CONVENTION CENTER AND A TOURIST CENTER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 980 of the 1983 Session Laws, as amended by Chapter 710 of the 1985 Session Laws and Chapter 721 of the 1995 Session Laws, reenacted by Chapter 20 of the 1996 Second Extra Session, reads as rewritten:

"AN ACT TO ALLOW CRAVEN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

"Section 1. Levy of Tax. -- (a) The Board of Commissioners of Craven County may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development ~~tax.~~

~~(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

~~"Sec. 2. -- Rate of Tax. The room occupancy and tourism development~~ tax ~~that may be levied under Section 1 of this act shall be~~ at the rate of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar enterprise within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any local sales tax.

"Sec. 2.1. Additional Occupancy Tax. -- In addition to the tax authorized by Section 1 of this act, the Craven County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any accommodations taxable under Section 1 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with the provisions of this act. Craven County may not levy a tax under this section unless it also levies the tax under Section 1 of this act.

"Sec. 3. -- Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

(1) religious organizations;
(2) a business that offers to rent fewer than five units;
(3) educational organizations; and
(4) summer camps.

"Sec. 4. Administration of Tax. -- A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. Any repeal of the tax authorized in Section 2.1 of this act may not become effective before June 30, 2018.

~~(a) Returns. -- Any tax levied under this act is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by Craven County. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. An operator of a business who collects the occupancy tax levied under this act may deduct from the amount remitted to the county a discount equal to the discount the State allows the operator for State sales and use tax.~~

~~The county shall design, print, and furnish to all affected businesses in Craven County the necessary forms for filing returns and instructions to ensure the collection of the tax. A return filed with the county tax collector under this act is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.~~

~~(b) Penalties. -- A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Craven County Board of Commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

~~"Sec. 5. Collection of Tax. -- Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Craven County. The tax levied pursuant to this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

"Sec. 6. Disposition of Taxes Collected. -- (a) 'Net Proceeds' Defined. -- As used in this act, the term 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, not to exceed three percent (3%) of the gross proceeds of the tax.

(a1) Tax Levied Under Section 1. -- Craven County shall remit the net proceeds of the occupancy tax levied under Section 1 of this act to the Craven County Tourism Development Authority. The County Tourism Development Authority shall allocate the occupancy tax revenue remitted to it for the following purposes:

(1) Direct advertising costs for visitor promotions, conventions, or tourism, including outdoor advertising, print media, broadcast media, and brochures;
(2) Marketing and promotions expenses, including test market programs, consultant fees, entertainment, housing expenses, travel expenses, and registration fees;
(3) Operating expenses for the Visitor Information Center, including postage, telephone, supplies, dues, subscriptions, equipment, rent, and overhead allocation;
(4) Salaries, benefits, and expenses for Visitor Information Center personnel; and
(5) Other expenses that aid and encourage visitor promotions, conventions, or tourism.

~~Effective until June 30, 2013, thirty-five~~ Thirty-five percent (35%) of the net proceeds in excess of one hundred thousand dollars ($100,000) remitted to the Authority pursuant to this subsection in a fiscal year shall be allocated to the Room Tax Trust Fund created pursuant to subsection (c) of this section.

(b) Authority May Contract. -- The County Tourism Development Authority may contract with appropriate organizations or agencies to assist it in carrying out the purposes provided in this section.

(c) Tax Levied Under Section 2.1. -- Craven County shall credit the net proceeds of the tax levied under Section 2.1 of this act to a separate Room Tax Trust Fund. Monies in the Room Tax Trust Fund may be used only to construct, maintain, operate, or market a convention or meeting facility in New Bern and a tourist center in Havelock. Any monies distributed to the City of New Bern or the City of Havelock from the Room Tax Trust Fund shall be maintained in and disbursed from a separate trust fund within the respective city's organizational chart of accounts.

"Sec. 7. Appointment, Duties of Tourism Development Authority. -- (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall also adopt a resolution creating a County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following members:

(1) One county commissioner appointed by the Board of Commissioners of Craven County;

(2) After the first full year of collections under this act, one person appointed by the governing board of each municipality from which, during the previous 12-month period, at least ten percent (10%) of the gross proceeds of the occupancy tax were collected;

(3) One person representing motel operators, appointed by the board of commissioners;

(4) One person with demonstrated interest in and support of tourism development, appointed by the New Bern-Craven Chamber of Commerce;

(4a) One person with demonstrated interest in and support of tourism development, appointed by the Havelock Chamber of Commerce;

(5) One person representing Tryon Palace Complex, appointed by the Tryon Palace Commission;

(6) Two at-large members with a demonstrated interest in conventions and tourism development, appointed by the other members of the Authority;

(7) The finance officer of Craven County, who shall serve as a nonvoting, ex officio member; and

(8) The Executive Director of the Authority, who shall serve as a nonvoting, ex officio member.

(b) All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members who shall serve the following terms:

(1) Members appointed pursuant to subdivisions (a)(1) and (a)(2) shall serve a one-year term;
(2) Members appointed pursuant to subdivisions (a)(3) and (a)(4) shall serve a two-year term; and
(3) Members appointed pursuant to subdivisions (a)(5) and (a)(6) shall serve a three-year term.

(c) A member appointed under subdivision (a)(2) shall serve his full term, regardless whether, during a 12-month period of his term, the percentage of the gross proceeds of the occupancy tax that are collected from the municipality he represents is less than ten percent (10%).

(d) Members may serve no more than two consecutive three-year terms. The members shall elect a ~~chairman,~~ chair, who shall serve for a term established in the bylaws of the Authority. The Authority shall meet at the call of the ~~chairman~~ chair and shall adopt rules of procedure to govern its meetings. The finance officer for Craven County shall be the ex officio finance officer of the Authority.

(e) The Tourism Development Authority shall report at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding year in such detail as the board may require.

~~"Sec. 8. Repeal of Levy. -- (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax authorized in Section 1 of this act, but the repeal of taxes levied under Section 1 of this act shall not become effective until the end of the fiscal year in which the resolution was adopted.~~

~~(a1) The board of county commissioners may by resolution repeal the levy of the room occupancy tax authorized in Section 2.1 of this act, but the repeal of taxes levied under Section 2.1 of this act shall not become effective until the later of June 30, 2018, or the end of the fiscal year in which the resolution was adopted.~~

~~(b) No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.~~

"Sec. 9. This act is effective upon ratification."

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Craven, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 1999.

Became law on the date it was ratified.

H.B. 507 **SESSION LAW 1999-287**

AN ACT CONCERNING ANNEXATIONS BY THE TOWNS OF CAPE CARTERET AND BOGUE.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added tthe Town of Bogue:

Those properties bearing Carteret County tax parcel numbers 538519710111, 538519700935, 538519617136, 538519614172, 538519606934, 538519606843, 538519604475, 538519603441, and 538519601347 regardless of their inclusion in Town of Cape Carteret Annexation Ordinance 96-07-01.

Section 2. The following described property is added to the Town of Cape Carteret:

- Lots 1, 4 (and that unnumbered area north of Lot 4), 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, Section C, and the "Recreation Area" south of Lot 1, Section C, all according to the plat of Quail Wood Acres recorded in Map Book 23, Page 41, Carteret County Registry.
- Lots 1, 2, 3, and 23, Section A, Quail Wood Acres, as recorded in Map Book 15, Page 55, Carteret County Registry.
- That portion of Fox Drive north of a westward extension of the northern boundary line of Carteret County tax parcel number 538519710111.

Section 3. Except for those properties added to the Town of Bogue in Section 1 of this act, Town of Cape Carteret Annexation Ordinance No. 96-07-01 is approved and shall become effective on July 1, 1999, or when this act becomes law, whichever occurs later.

Section 4. The Town of Cape Carteret and the Town of Bogue shall have the authority, prospectively or retroactively, to agree to the establishment of zoning buffers along their common city limit lines.

Section 5. This act is effective on July 1, 1999, or when it becomes law, whichever occurs later.

In the General Assembly read three times and ratified this the 14th day of July, 1999.

Became law on the date it was ratified.

H.B. 638 **SESSION LAW 1999-288**

AN ACT TO AUTHORIZE THE OWNERS OF PROVISIONALLY APPROVED SEPTIC TANKS AND INNOVATIVE SEPTIC TANK SYSTEMS IN THE COUNTIES OF CAMDEN, CHOWAN, CURRITUCK, GATES, HERTFORD, PASQUOTANK, PERQUIMANS, TYRRELL, AND WASHINGTON TO TRANSFER OWNERSHIP OF THESE

SYSTEMS TO A JOINT AGENCY CREATED BY TWO OR MORE UNITS OF LOCAL GOVERNMENT LOCATED IN THOSE COUNTIES AND TO AUTHORIZE THE COUNTIES OF GATES AND HERTFORD TO COLLECT FEES FOR THE INSPECTION OF PROVISIONALLY APPROVED SEPTIC TANK AND INNOVATIVE SEPTIC TANK SYSTEMS IN THE SAME MANNER AS PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. As used in this act, "provisionally approved septic tank or innovative septic tank system" means a septic tank system located in soil that is classified as provisionally suitable or an innovative septic tank system, as those terms are used in Subchapter 18A of Chapter 18 of Title 15A of the North Carolina Administrative Code, G.S. 130A-343, and any applicable local rules or ordinances.

Section 2. As used in this section, "unit of local government" has the same meaning as in G.S. 160A-460. One or more units of local government located in the Counties of Camden, Chowan, Currituck, Gates, Hertford, Pasquotank, Perquimans, Tyrrell, and Washington may establish a joint agency for the purpose of owning and operating a provisionally approved septic tank or innovative septic tank system as provided in Article 20 of Chapter 160A of the General Statutes. The owner of any provisionally approved septic tank or innovative septic tank system may, upon acceptance by a joint agency established under this section, transfer ownership of any real or personal property or interest therein that is a part of or used in connection with the provisionally approved septic tank or innovative septic tank system to the joint agency. Notwithstanding G.S. 160A-462(a), a joint agency created pursuant to this section may hold real property necessary to the undertaking. Any county named in this section may accept real or personal property described in this section from the owner of the property for transfer to a joint agency established as provided in this section.

Section 3. The Counties of Gates and Hertford may adopt an ordinance providing that any fee for the inspection of a provisionally approved septic tank or other innovative septic tank system may be billed as property taxes, may be payable in the same manner as property taxes, and in the case of nonpayment, may be collected in any manner by which property taxes can be collected. If the ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property described on the bill that includes the fee.

Section 4. This act is effective when it becomes law. Section 3 of this act applies to fees imposed for inspections performed on or after the date this act becomes law.

In the General Assembly read three times and ratified this the 14th day of July, 1999.

Became law on the date it was ratified.